

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

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In Re:) Case No. 19-30088-DM
) Chapter 11
PG&E CORPORATION AND PACIFIC)
GAS AND ELECTRIC COMPANY) San Francisco, California
) Friday, June 5, 2020
Debtors.) 9:30 AM
)
ORAL ARGUMENT RE CONFIRMATION
HEARING

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE DENNIS MONTALI
UNITED STATES BANKRUPTCY JUDGE

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1 SAN FRANCISCO, CALIFORNIA, FRIDAY, JUNE 5, 2020, 9:30 AM

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3 (Call to order of the Court.)

4 THE CLERK: -- California, court is now in session.
5 The Honorable Dennis Montali presiding.

6 One moment, Your Honor, while I bring in Mr. Karotkin.
7 Mr. Karotkin is joining.

8 THE COURT: Good morning, Mr. Karotkin. Sorry about
9 the delay.

10 MR. KAROTKIN: Good morning, Your Honor.

11 THE COURT: I can't blame your client for whatever
12 went wrong today. What do you have in store for me for this
13 morning?

14 MR. KAROTKIN: Well, Your Honor, I wish I could tell
15 you that we have finalized the agreement with the UCC, but we
16 have not. We still have some open issues that we have not
17 resolved, but I know that you have other things on the schedule
18 this morning to begin with, and I think the PERA argument, as
19 well as Mr. Julian. I would suggest that after those two
20 items, it would probably be time for a recess in any event
21 where we can regroup, and after that, give you a further update
22 as to where we are on that if that works for you.

23 THE COURT: Well, what have you heard from the
24 municipal governmental agencies? I know Mr. Troy wants to
25 speak. Do you know -- anyone else contacted you about speaking

PG&E Corporation and Pacific Gas and Electric Company

1 this morning?

2 MR. KAROTKIN: I know Mr. Troy wants to speak. We
3 have furnished some additional modifications to Mr. Pascuzzi
4 and his group, and which I think includes Mr. Troy. I think we
5 have made progress with those. I thought Mr. Troy wanted to
6 address the trust documents but I don't want to speak for him.

7 THE COURT: Okay, let's do this. I know Mr. Etkin and
8 his colleagues for the securities group are definitely
9 scheduled to speak, and I'm going to do this, I have a brief
10 statement to make, or a point -- a question to put to Mr.
11 Etkin. In fact, having my technical hang-ups today, I'm going
12 to make sure I can share my screen with you, and I'm going to
13 share.

14 All right, so Mr. Etkin, I hope you can hear this but
15 I -- during the evening, I thought about presenting a question
16 to you, and then I'm going to have a question for Mr. Johnston,
17 whoever is going to speak later for the equity group.

18 So this is a brief hypothetical. I'm an old
19 hypothetical person. I'll just summarize it. It changes the
20 facts to simplify it. What it says is two different people buy
21 stock just before the class period date. You'll see I just had
22 them each buy 1,000 shares. I made up a price, not necessarily
23 the case but around what I heard about. They each paid seventy
24 bucks. They each paid 7,000 dollars, and days later, the
25 market learned about the problems, and "Mr. A" bailed out and

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1 sold his stock, oddly enough on January 29th of 2018, and he
2 sold them for sixty dollars, so he lost ten dollars a share or
3 1,000 dollars.

4 I'm going to stop right there and suggest it was just
5 a coincidence in my hypothetical that one year later, the
6 company filed bankruptcy, and I believe there could be little
7 doubt that Mr. A's loss, assume -- by the way, this assumes
8 that he can prove that PG&E is culpable -- not distinguished
9 between PG&E or officers and directors, but that he can
10 establish a valid claim for damages of 1,000 dollars because he
11 lost ten dollars a share.

12 So a year later, the company files bankruptcy. He has
13 a liquidated claim of 1,000 dollars. To me, that is consistent
14 with the law that says on the petition date, you find out what
15 the amount of someone's claim is, and that's Mr. A's claim.

16 In the meantime, of course, the shares dropped down to
17 fourteen dollars. PG&E filed bankruptcy. "Mr. B's" still in
18 the game. He's still playing the game. He's in for the long
19 haul, but by then the stock is down to fourteen dollars. So he
20 has a fifty-six dollar paper loss, but I'll assume that because
21 he could've gotten out at sixty dollars, the same time A got
22 out, I think that the best I could give him is the same 1,000
23 dollar claim because he didn't -- he wasn't defrauded when the
24 stock went from sixty to fourteen, he was playing the game. He
25 was into -- as an investor.

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1 So now he has filed -- now he says I have a claim, and
2 it seems to me it is inescapable that both A and B have 1,000
3 dollar damage claims. Mr. B happens to still own stock.

4 So I put in summary form, the equation, the fraction
5 that Mr. Johnston had yesterday. I simplified it, but I said
6 if we follow his theory, we go back to the day when the market
7 dropped, and A -- by the way, that stays on the left, it says
8 526 shares, it should say -- there's a --

9 AUTOMATED VOICE: Okay. I found this on the web, if
10 we go back to the date.

11 THE COURT: What is going on -- there's Siri is
12 talking to me.

13 I made a mistake when I did that. I left out an "M",
14 so it should say 526 million shares, and doing the fraction,
15 that would put his value in the stock at a lower number, the
16 way Mr. Johnston argued, and using your number of a much lower
17 denominator, there would be a much higher result.

18 So I just want you to figure out when it's your turn
19 to argue, how you would explain why I shouldn't assume that's
20 the case. It's inconceivable to me that the two investors
21 would get different amounts of shares when their damage for the
22 fraud is the same. That's your question. You'll have time to
23 answer it in your argument.

24 My question for Mr. Johnston and the shareholders is
25 not written out, it's this. They make the argument in the

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1 briefs that there should be a credit against any claim for
2 insurance recoveries by the investor, and they say that's
3 really because the insurance belongs to the debtor. It's
4 property of the estate.

5 The problem I have with that theory, as I read the
6 briefs last night, and reflected on this is that is
7 inconsistent with the idea that 510(b) doesn't allow debtors to
8 pay money. It tells debtors to issue stock to 510(b)
9 claimants. And so I don't think the proponents necessarily can
10 have it both ways. You can't say that well, if there's
11 insurance that will be paid in money to the victim, that should
12 offset the victim's claim. I say "victim", I mean the
13 defrauded investor. But it seems to me that that's
14 inconsistent with the notion that the debtor is paying value
15 because it's only allowed to distribute to 510(b) claimants,
16 equity along the lines equivalent to the other equity.

17 So that's for later. I'm going to close the
18 hypothetical off the screen, and I'm going to not ask you to
19 necessarily even to respond to these things until it's your
20 turn to argue.

21 So with that, Ms. Parada, I would like you to bring
22 Mr. Troy in, and then in the meantime, if there are any counsel
23 for municipalities, or anyone else who had been promised an
24 opportunity to speak, put up your hand on the raise hand
25 function, and I'll attempt to recognize you, and then if there

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1 are -- nobody else shows up that way, we'll go to Mr. Etkin and
2 his side.

3 Okay, good morning, Mr. Troy. Sorry about the delay
4 here.

5 MR. TROY: No problem, Your Honor. Good morning.

6 Mr. Karotkin is correct with respect to the
7 outstanding objection on the requested inserts to the Fire
8 Victim Trust agreement and the claims under the Rules of
9 Procedures. Those -- we have worked on some of that last night
10 with the counsel to the trustee -- to the trust, I don't think
11 we're there yet, and so we do need some time to address it but
12 Mr. Pascuzzi and I talked this morning, and at the appropriate
13 time, he will address that with the Court.

14 THE COURT: Okay. Well, let's see, is this Mr.
15 Pascuzzi raising his hand? Let me just find out. Well, I see
16 several people are, and one of them is Mr. Pascuzzi, and Mr.
17 Tredinnick, and Mr. Gorton. So I'll come to the other folks,
18 but for now, Ms. Parada, let's bring Mr. Pascuzzi, Mr.
19 Tredinnick, and Mr. Gorton into the room all together.

20 And Mr. Troy, do you want to -- are you going to be
21 saying anything more? Do you plan on saying anything more
22 right now?

23 MR. TROY: I might, Your Honor, but I'm going to let
24 Mr. Pascuzzi and the others take the lead.

25 THE COURT: Okay. I'll leave you there too, then.

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1 MR. TROY: Thank you, Your Honor.

2 THE COURT: Good morning, Mr. Pascuzzi.

3 MR. PASCUZZI: Good morning, Your Honor. Paul
4 Pascuzzi for the California State Agencies.

5 THE COURT: Okay. Hold on. Wait until the other
6 folks come in. All right, Mr. Gorton? Good morning. Can you
7 hear me?

8 MR. GORTON: Good morning, yes, sir.

9 THE COURT: All right. Mr. Tredinnick, I see your
10 name on the screen. You need to unmute yourself, and turn on
11 your video.

12 Good morning, Mr. Tredinnick. Can you hear me?

13 MR. TREDINNICK: Yes, I can, Your Honor.

14 THE COURT: Okay.

15 MR. TREDINNICK: Can you hear me?

16 THE COURT: Yes, fine. Thanks.

17 All right, Mr. Pascuzzi, you have the floor.

18 MR. PASCUZZI: So Your Honor, I'll just inventory what
19 is resolved and not resolved from our perspective. I saw that
20 the debtors filed an updated chart just a few minutes ago, and
21 I took a quick look at it, and I think there's a few
22 inaccuracies in it.

23 I think that with regard to plan Section 8.2(e) which
24 deals with the effect of the assumption of executory contracts,
25 that is not resolved. I think Mr. Gorton and Mr. Tredinnick

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1 may want to address that a little bit.

2 The famous 10.13, which is the special provisions for
3 governmental units, we had made some tweaks to the version of
4 that that was in the draft plan that was filed earlier in the
5 week, and sent that to the debtors, and my understanding is
6 they are still reviewing it. I've been coordinating with Mr.
7 Troy, Mr. Gorton, Mr. Tredinnick, the Pension Benefit Guaranty
8 Corporation, and others on that, so we're waiting to hear back
9 from the debtors on that, and if there's some issues on that,
10 we would like to be heard but the chart says that's resolved
11 and it is not resolved.

12 THE COURT: Well, go back to 8.2 -- 8.2(e), do you
13 think that's still up for discussion among the counsel as well,
14 both of them still in play?

15 MR. PASCUZZI: Yes.

16 THE COURT: I mean, in --

17 MR. PASCUZZI: Yes, Your Honor. I mean, I've already
18 addressed it. Mr. Troy's already addressed it. So I'm not
19 asking to reargue anything on that, but I don't think Mr.
20 Gorton or Mr. Tredinnick have had their turn.

21 THE COURT: No, that's fine, and I'm happy to listen
22 to them. My point is, I'll listen to them, but if there's
23 still some back and forth going on, I don't want to pass that
24 up either. So --

25 MR. PASCUZZI: Well, I think the debtors had made a

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1 proposal to us, and we responded this morning that it was not
2 acceptable. I think they know what we want, and I think
3 they've told us they're not going to give us what we want, so -
4 -

5 THE COURT: On both sections, on both 10.3 (sic) and
6 8.2 or only 8.23 -- (e)?

7 MR. PASCUZZI: 8.2(e) is what I'm speaking to, Your
8 Honor.

9 THE COURT: Okay.

10 MR. PASCUZZI: I think that's something you have to
11 decide.

12 THE COURT: All right.

13 MR. PASCUZZI: 10.13, we're waiting to hear --

14 MR. KAROTKIN: Your Honor?

15 MR. PASCUZZI: -- to hear back from the debtors.

16 THE COURT: Mr. Karotkin?

17 MR. KAROTKIN: Your Honor, I'm sorry. I know we sent
18 Mr. Pascuzzi and his group, including Mr. Gorton, and Mr.
19 Tredinnick, proposed revisions to 8.2(e), I believe last night.
20 We heard back from him about an hour ago that 8.2(e) was not
21 acceptable but no response as to how it could be modified to be
22 acceptable. We think it is perfectly proper, and in full
23 compliance with the statute, and we're prepared to rely on that
24 and argue on that.

25 If Mr. Pascuzzi and his colleagues have suggested

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1 revisions, we would be happy to consider them, but the only
2 response was no, and frankly, I don't understand -- maybe we
3 can't resolve it, maybe we can, but I thought we went a long
4 way to address their concerns, and we think it's appropriate.

5 THE COURT: Okay.

6 MR. KAROTKIN: So 10.13, immediately before we got on
7 the call, and I know they haven't had a chance to review it, we
8 did send proposed revised language to 10.13, but I do know they
9 have not had time to look at that.

10 THE COURT: Okay, well I haven't --

11 MR. KAROTKIN: But I think that addresses their
12 concerns.

13 THE COURT: Needless to say --

14 MR. KAROTKIN: Well, hopefully, they will agree.

15 THE COURT: -- I haven't had time to look at anything.
16 I was busy trying to get my screen to work, and to do my
17 hypothetical for the securities folks.

18 Mr. Gorton, you've been patient. What can I -- what
19 do you have to say to me?

20 MR. GORTON: Well, Mr. Pascuzzi's been in front
21 herding cats here, and I want to -- I appreciate that, and I
22 think Mr. Karotkin's observation that we haven't had an
23 opportunity to review what we just got is accurate.

24 I would at some point, like an opportunity to address
25 the Court, but I think it's also convenient and efficient for

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us to try to get these issues resolved before we close.

THE COURT: Oh, yeah, I agree, and maybe -- again, I'm not telling you what to do, or what not to do, but we're going to go after you all finish here, and there's going to be a fairly long segment on the securities litigation, which I don't imagine concerns you, and so maybe that's a time for all of you to go back and forth offline, and if you reach a resolution, that's fine, if not, that's what I'm here to try to resolve. So I'll do it.

MR. KAROTKIN: Your Honor, one point of clarification.

THE COURT: Yes.

MR. KAROTKIN: My colleague, Ms. Liou, just emailed me and said she is sending those proposals now. I thought they had gone out before the hearing, but she is sending them now.

THE COURT: Okay.

MR. KAROTKIN: I apologize for that.

THE COURT: Okay. Mr. Gorton, anything more for now, or shall we call on Mr. --

MR. GORTON: Your Honor, I think it's best. We'll just wait until we see what we've got, and then we can recap what's really at issue.

THE COURT: Okay.

MR. GORTON: Thank you.

MR. PASCUZZI: Your Honor?

THE COURT: Yes, Mr. Pascuzzi?

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1 MR. PASCUZZI: I'm sorry, I wasn't finished with my
2 inventory of what had --

3 THE COURT: Oh.

4 MR. PASCUZZI: -- been resolved because I think that
5 10. -- there were some minor changes to 10.3 with the
6 discharge. I think that is resolved, and I think that the
7 debtors had agreed to, in 10.9(e) change the "releasing
8 parties" to capital R, capital P, Releasing Parties, so I think
9 that is resolved.

10 I think that the retention of jurisdiction issue in
11 plan Section 11.1 is not resolved.

12 And then we had all reserved our rights with regard to
13 executory contracts, and the current version of the
14 confirmation order at paragraph 34 does reserve those rights,
15 and that is fine with us, and -- because we have filed a cure
16 dispute that would reserve our rights at docket number 7276.

17 So I believe there does not need to be any further
18 issues with regard to executory contract cure amount issues on
19 that.

20 And then as Mr. Troy mentioned, we would like to
21 address the Fire Victim Trust and claims resolution procedures
22 issues. I don't know if you want me to do that now or not.

23 THE COURT: Well, what do you want to do? I mean, Mr.
24 Tredinnick hasn't had a chance to say a word. Are you going to
25 be the spokesman for the whole group on the trust document?

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1 MR. PASCUZZI: Just with respect to the government,
2 Mr. Troy and I, on the -- recall, Your Honor, you had approved
3 settlements with the government things.

4 THE COURT: Yes.

5 MR. PASCUZZI: I think the other issues with Adventist
6 and other parties, those aren't our issues.

7 THE COURT: Let me ask Mr. Tredinnick if he wants to
8 weigh in, and then perhaps we'll come back to you and see if it
9 you want to talk about the trust issues.

10 Mr. Tredinnick, are you on board with everybody, or
11 what's your pleasure?

12 MR. TREDINNICK: Yes, Your Honor, I believe we -- our
13 objections are down to the executory contract issues, the
14 8.2(e) and also we were concerned with the indemnity
15 contribution issues that apparently are being worked out with
16 the UCC. We also have an issue -- we had a concern about that.

17 So I think our issues are in process, and seem like
18 they're still being discussed. So if we can get them worked
19 out, I think then we would not be making any other arguments
20 with respect to the plan.

21 The other issues had been resolved with the other
22 resolutions that have been talked about today.

23 THE COURT: Okay. Mr. Karotkin, I recall yesterday
24 when Mr. Bray was speaking that the indemnity and contribution
25 piece of the executory contract had been resolved; isn't that

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1 correct?

2 MR. KAROTKIN: It was -- no, that's not correct. It
3 was resolved subject to appropriate documentation --

4 THE COURT: Oh, okay.

5 MR. KAROTKIN: -- (indiscernible).

6 THE COURT: Well, so it's still in play. Again, I
7 can't keep track of it, it's such a moving target. But before
8 we conclude the arguments today, I'm probably going to have a
9 double-check on what's pending and what isn't. And Mr.
10 Karotkin's duty is to keep me honest, so I'll know what I'm
11 supposed to be deciding, and what I don't have to decide. Mr.
12 --

13 MR. GORTON: Your Honor, Mark Gorton?

14 THE COURT: Yes.

15 MR. GORTON: There is also an open issue on -- that
16 the municipal objectors raised on 10.9(f) of the scope of that
17 injunction.

18 THE COURT: 10.9(f)?

19 MR. GORTON: Yes, Your Honor.

20 THE COURT: And what are -- is that in discussion with
21 the parties or not?

22 MR. GORTON: It was simply raised in the brief because
23 the scope was beyond, and so it has not -- the proposal was to
24 take the expansive language out of it, or actually to delete it
25 in my objection. I said simply delete it, but we've not had a

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discussion about modifying that document -- that provision.

THE COURT: Okay. All right. So I've at least --
unless there's a change, it looks to me like that's one of the
open items that --

MR. GORTON: Thank you.

THE COURT: -- I'm going to have to decide. Okay.
Thanks very much.

Let me, Mr. Pascuzzi?

MR. TREDINNICK: Your Honor? Your Honor?

THE COURT: Yes.

MR. TREDINNICK: If I, again, just make one point.
Mr. Glassman, who represents the Southern San Joaquin
Irrigation District, had -- was trying to raise his hand. I
think he has an issue with respect to eminent domain issues,
and he sent me an email, said he wanted to address the Court,
as well. So --

THE COURT: He's also raised his hand. He's actually
apparently raised his hand twice. I don't know how to do it --

MR. TREDINNICK: Okay.

THE COURT: -- with someone who has --

MR. TREDINNICK: I just wanted to --

THE COURT: -- raised his hand twice.

Ms. Parada, let's --

MR. TREDINNICK: I'm raising my hand for him, as well,
so --

PG&E Corporation and Pacific Gas and Electric Company

1 THE COURT: Ms. Parada, let's bring both of Mr.
2 Glassman into the room for now, along with -- while the other
3 counsel are still here, as well, please.

4 MR. PASCUZZI: Yeah.

5 THE CLERK: Mr. Glassman is joining now. Mr.
6 Glassman, please state your appearance, and unmute your
7 microphone.

8 THE COURT: Mr. Glassman, you need to unmute.

9 MR. GLASSMAN: Hello?

10 THE COURT: Oh, okay.

11 MR. GLASSMAN: I'm sorry. Paul Glassman of Stradling
12 Yocca Carlson and Rauth, appearing for the South San Joaquin
13 Irrigation District.

14 THE COURT: And was I correct, Mr. Glassman, you put
15 your hand -- you put two hands up, right, or you -- there was
16 some --

17 MR. GLASSMAN: Yes, I had -- because I didn't get
18 through on one device, Your Honor. I tried a second one, as
19 well, and that's the reason why there were two devices.

20 THE COURT: And then you got --

21 MR. GLASSMAN: It really --

22 THE COURT: -- then you got Mr. Tredinnick to do your
23 heavy lifting for you.

24 MR. GLASSMAN: And I appreciate that.

25 THE COURT: That's pretty --

PG&E Corporation and Pacific Gas and Electric Company

1 MR. GLASSMAN: So the most important thing, I just
2 wanted to make sure I could get on because this is my first
3 video, even though I've prepared for many. So I think our
4 concerns have been covered. We still have the open issues, as
5 well, particularly in the area of eminent domain, but the open
6 provisions are the same for us. That is the 8.2(e), and the
7 10.9(f), 10.13.

8 THE COURT: But if you're -- they're fine. I remember
9 in your objection, I believe you stood out alone in terms of
10 the eminent domain; is that an open issue that I will have to
11 decide?

12 MR. GLASSMAN: Well, I'm hopeful that that would be
13 resolved. In the papers that were filed by the debtors and
14 their chart, they said that the -- our eminent domain actions
15 which are two actions involving litigation -- let me just
16 explain that for a moment.

17 My client had for many years, been seeking to acquire
18 certain retail electric assets from PG&E through the exercise
19 of their eminent domain power.

20 THE COURT: Right.

21 MR. GLASSMAN: And there's litigation -- which came
22 before the Court on a relief from stay, and there was a
23 stipulation to lift the stay. There's two lawsuits, one
24 involving eminent domain action brought by the district, the
25 other involving an action for declaratory relief by PG&E

PG&E Corporation and Pacific Gas and Electric Company
1 regarding a local agency formation and administrative
2 proceeding, or lack of action. So the effect of discharge to
3 my client was a very live controversy of real consequence, not
4 a hypothetical issue.

5 Now in the papers that the debtors filed, they
6 indicated that the district's eminent domain and LAFCo actions
7 were not claims under Section 101.5 of the Bankruptcy Code, and
8 therefore we not subject to the discharge under 10.3 of the
9 plan. We agree with that, of course, but we were concerned
10 that it didn't go far enough because of the provisions in the
11 plan throughout the plan, that purport to discharge matters
12 that are not claims.

13 If Mr. Karotkin could verify, and finding that those
14 actions are in fact not subject to any of the plan discharge
15 release, and so forth, provisions, that would help advance our
16 issues quite a bit. And so the problem is there's now these
17 other provisions in the plan, some of which have been
18 eliminated, such as 6.1, and --

19 MR. KAROTKIN: Your Honor, can I interrupt?

20 THE COURT: Sure. Again, Mr. Karotkin, just --

21 MR. KAROTKIN: I mean, if Mr. Pascuzzi is speaking for
22 Mr. Glassman with respect to his eminent domain issue, as to
23 how Section 10.13 should be revised yet once again to address
24 these special interests, the thing we sent out a few minutes
25 ago -- first of all, it addressed eminent domain to begin with,

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1 so I'm not sure I understand the problem. They requested a few
2 additional words. I don't know if those were Mr. Glassman's
3 words or somebody else's words in the eminent domain section
4 but if they look at what we emailed to them a little while ago
5 from my partner, Ms. Liou, I believe we accepted their language
6 on that, and I don't know why or how, at this point, it
7 possibly could be an issue.

8 THE COURT: Well, maybe one of the issues is things
9 are just happening too fast and people can't read emails while
10 they're doing other things.

11 I thought Mr. Glassman and his client's matters were
12 rather unique on the eminent domain. I could be wrong, and
13 maybe the other counsel have similarly-situated clients, and
14 problems but Mr. Glassman was up-front about these two specific
15 matters.

16 Mr. Glassman, are you able to work -- zero in on the --
17 -- whatever Ms. Liou for the debtors sent you in the last little
18 while, and --

19 MR. GLASSMAN: I will take a look at that, Your Honor,
20 but Your Honor is correct that we had unique issues, but also a
21 very real controversy on our eminent domain action, but also
22 it's an issue generally for others in -- other governmental
23 units, as well, and we were both speaking on their behalf with
24 regard to our group, and others, such as the City of San
25 Francisco, and Mr. Gorton's client, Valley Clean Energy, that

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1 have issues, and so we were really raising issues in two
2 capacities, but our main focus, of course, was resolving our
3 particular actions.

4 And so again, on that issue, I will be asking that
5 that -- because there's so many provisions in the plan as the
6 Court is now aware, that could potentially release claims, and
7 there could be some inconsistencies and such, that there be
8 some clear statement in the plan -- I'm sorry, in the either
9 plan or confirmation order regarding our issue because it seems
10 to be conceded by Mr. Karotkin, but yet it's not clear because
11 all of these various relief provisions, and that go beyond
12 releasing claims, and they talk about releasing the causes of
13 action which in addition to the comments Mr. Troy made, and Mr.
14 Pascuzzi made regarding the scope of causes of action, it also
15 includes power, such as powers of eminent domain, and such,
16 inchoate rights and interests, which is how the courts describe
17 eminent domain.

18 So having something clear to exclude that would go a
19 long way towards advancing the issue.

20 THE COURT: Okay.

21 MR. KAROTKIN: Again --

22 MR. GLASSMAN: I will take --

23 MR. KAROTKIN: -- again, Your Honor --

24 MR. GLASSMAN: -- that up with Mr. -- I will take that
25 up with Mr. Karotkin.

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1 MR. KAROTKIN: Your Honor, if he just looks at the new
2 language, it's absolutely clear, and I think we should move on.

3 THE COURT: Mr. Karotkin, you're expecting too much of
4 me, and perhaps some of these other people. We just can't -- I
5 can't, and I'll say some of these counsel, just can't process
6 these things in real time. So --

7 MR. KAROTKIN: I'm not -- Your Honor, I'm not asking
8 you to agree with us, I'm just saying let us -- let Mr.
9 Glassman look at what we sent --

10 MR. GLASSMAN: Okay.

11 MR. KAROTKIN: -- and if there's still an issue, we
12 can address it later.

13 THE COURT: I'll do that.

14 MR. KAROTKIN: Okay.

15 MR. GLASSMAN: Okay. And we also have --

16 MR. KAROTKIN: (Indiscernible) argue (indiscernible).

17 MR. GLASSMAN: -- many executory contracts as well.

18 THE COURT: Okay.

19 MR. GLASSMAN: That's a secondary issue for our
20 client. We have those issues, as well.

21 THE COURT: Mr. Glassman, what I'm going to do is I'm
22 going to put the burden on Mr. Karotkin. He's been very good
23 about a lot of balls in the air that he's juggled, like a
24 magician, or whatever -- whoever juggles things, and later
25 today, or early this afternoon, or sometime, he will keep me in

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1 informed as to what's open and what's resolved. And so for
2 now, I'm going to just trust that the system will work, and you
3 and others will have an opportunity to reflect on what you --
4 what's being proposed.

5 I'm going to come back to Mr. Pascuzzi in a moment,
6 but I notice now with the hands going up, Mr. Abrams, I'm not
7 going to hear from Mr. Abrams at this point on anything, and
8 Ms. Cheever, I don't know why her hand -- or why she's there.
9 Mr. Kelly, I know, wished to be heard, but not on this subject.

10 Mr. Mintz, I'm going to ask you to lower your hand if
11 you want to be heard about something other than what I'm
12 talking to these counsel, all of whom represent governmental
13 agencies, and then raise it again if you want to be heard
14 later.

15 And Mr. Bray, the same I think is true with you.
16 You've just put up your hand. I just can't juggle everybody,
17 and if you have something to add on that subject, okay -- well,
18 he took his hand down. All right.

19 I'm going to let -- Mr. Glassman, Mr. Troy, Mr.
20 Gorton, and Mr. Tredinnick, I'm going to ask them to be put
21 back in the audience, and I'm going to let Mr. Pascuzzi make
22 his presentation or his argument about the trust issue.

23 MR. PASCUZZI: Thank you, Your Honor.

24 THE COURT: Okay. Ready?

25 MR. PASCUZZI: Yes, Your Honor. Thank you. So we did

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1 have a call yesterday, late afternoon with the attorneys for
2 the Trustee, and the attorneys for the tort committee on the
3 Fire Victim Trust agreement and claims resolution procedures
4 issues that the United States and the California State agencies
5 have.

6 The issue, I think, is -- you'll probably hear from
7 them later -- they want us to sign a release, an additional
8 release to the release that's already in both the federal
9 settlement agreement, and the California State agency
10 settlement agreement, and the releases in those agreements
11 already, that have already been approved by the Court, were
12 specifically negotiated and so I'd point the Court to Sections
13 2.2(h), as in hat, and 2 --

14 THE COURT: 2.2(h) of the trust agreement?

15 MR. PASCUZZI: Of the settlement agreements.

16 THE COURT: Of the government's settlement agreement.
17 What's the docket number?

18 MR. PASCUZZI: Docket number 7399-2 is the California
19 one, and I think 7399-1 is probably the federal one. That's
20 your order approving our settlement agreements.

21 THE COURT: Okay.

22 MR. PASCUZZI: And they're attached. So 2.2(h) as in
23 hat, and 2.2(e) as in Edward, have the releases that we
24 specifically negotiated, heavily negotiated. It took weeks and
25 mediation to get those agreements done.

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1 I would also point out that the Fire Victim Trust
2 agreement itself has substantial protections for the Trustee,
3 and the claims administrator, and that -- the current version
4 of that is attached to the plan supplement as Exhibit D, at
5 docket number 7037, and I would point the Court to Sections 5.4
6 and 5.5 of the Fire Victim Trust agreement.

7 Basically, they say the standard of care for the
8 trustee and the claims administrator is very, very low, no
9 willful misconduct, bad faith or fraud, and Section 5.7 of the
10 trust agreement, the trust indemnifies the trustee, and the
11 claims administrator, and I'm sure they will have insurance.

12 So additional releases are just not necessary, in
13 addition to the fact that they're not included -- there are
14 specifically negotiated releases in our court approved
15 settlement agreements. And again, I would refer the Court to
16 the tort committee's argument about the res judicata effect of
17 settlement agreements, and you can't change them after the fact
18 at docket numbers 7509, and 7522, which I had raised that in my
19 other argument, Your Honor.

20 So --

21 THE COURT: Well, hold on Mr. Pascuzzi. While Mr.
22 Molton, trustee's counsel, has raised his hand. So maybe he
23 can shed some light on this. So, Ms. Parada, bring Mr. Molton
24 in please, and go ahead, Mr. Pascuzzi, if you have some other
25 thoughts.

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1 MR. PASCUZZI: Not that --

2 THE COURT: Do you want to wait and hear what Mr.
3 Molton has to say?

4 MR. PASCUZZI: Yeah, that was all I had, Your Honor.

5 THE COURT: All right, hold on.

6 MR. PASCUZZI: We'd urge the Court to stick to our
7 settlement agreements and not require anything further.

8 THE COURT: Well, is this one of those things where
9 everybody wants double -- you know, belts and suspenders, and
10 the other side says belts is good enough; I don't want to give
11 you suspenders? Is this a game of chicken here? Is it a big
12 deal for the two agencies, federal and state, to say the same
13 thing again?

14 MR. MOLTON: Well, it isn't, Your Honor. By the way,
15 Your Honor, first before -- my name is David Molton. First
16 time here, last day of this hearing, but it's a pleasure --

17 THE COURT: Maybe, maybe it's the last day.

18 MR. MOLTON: It's a pleasure to be in front of you
19 finally, Judge. I'm with Brown Rudnick, and we're counsel as
20 you know, to the Trustee, Judge Trotter, and the claims
21 administrator, Kathy Yanni.

22 It's not the same thing. Mr. Pascuzzi has identified
23 the issues, but he hasn't really did so with specificity. And
24 if you mind, Your Honor, I'll take just a few minutes to go
25 through what I think is what the issue here. Mr. --

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1 THE COURT: Okay, but Mr. Molton, you have to
2 understand, I went through the trust agreement two weeks ago.
3 I haven't touched it, and it isn't even within arm's reach of
4 me now. So you can say what you want but I just can't keep up
5 with you on this either.

6 MR. MOLTON: I understand.

7 THE COURT: Okay.

8 MR. MOLTON: How about I keep at the 50,000-foot
9 level, Judge, just to give some counterpoints to what my
10 friend, Ms. Pascuzzi has argued? Okay?

11 THE COURT: Yes, sir.

12 MR. MOLTON: Okay. In any event, what we're asking
13 for, Judge, is what every fire victim claimant which includes
14 the government entities which have been channeled to the trust,
15 and take through the trust, what they are required to provide
16 the trustee before they receive a distribution, and that is not
17 just a release of the trust, which is what Mr. Pascuzzi refers
18 to in the two government agreements, the California government
19 agreement, entity agreement, and the FEMA, the federal, et al
20 agreement.

21 In there, they have a release of the trust, but they
22 don't have a release of the trustee, the claims administrator,
23 and the claims administrator and the trustee's advisors, all of
24 which, Judge, in a case like this is an unremarkable ask from
25 the government. So it's a different sort of release, and it's

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one that we're asking for from every other fire victim claimant.

And I do want to note that --

THE COURT: Is that true? Now let me clarify that. So an individual who has a 5,000 dollar minor damage claim, who is going to get 5,000 or 4,000 or whatever, will sign a similar release in favor of Justice Trotter and Ms. Yanni --

MR. MOLTON: Yes.

THE COURT: -- and everybody else --

MR. MOLTON: Yes, it's --

THE COURT: -- on that --

MR. MOLTON: Yes, Judge. There are two different sort of releases appended to the trust agreement. I believe, one is for entities, and one is for individuals, but they contain the same release of the indemnified trust parties which includes his Honor Justice Trotter, as well as Kathy Yanni, and their advisors.

It's true that 2.2(e) of the California Entity Agreement, and 2.2(g), they're exactly similar agreements. In a section called "Trust Administration" provide a hands-off that the government entities are hands-off for how the trust operates, but it provides an exception, "except if they fail to perform the payment obligations," then of certain sections of that agreement, they could come to Your Honor and seek enforcement.

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1 Moreover, they retain the same rights under those
2 agreements as any other fire victim claimant to contest Judge
3 Trotter's administration of the Fire Victim Trust. As I said,
4 the release that the government entities gave in this agreement
5 that was negotiated, we weren't a party to it, Judge, the
6 trustee wasn't a party to it, releases the trust with respect
7 to the government entity claims against -- which are channeled
8 into the trust, and --

9 THE COURT: No, I understand. I understand the
10 background.

11 MR. MOLTON: It doesn't release Judge Trotter for his
12 conduct.

13 And I want to go into that what -- these are very
14 complex agreements. I won't pretend to be able to understand
15 them all, and I'm not going to take you through the weeds on
16 them, but every element of the consideration involved in these
17 agreements requires Judge Trotter's judgment.

18 Number one, on the California -- CalFire, they get
19 their first seventy million dollars of earned interest on that
20 --

21 THE COURT: Yeah, Mr. Molton, I know that background.

22 MR. MOLTON: Okay.

23 THE COURT: Just deal --

24 MR. MOLTON: But --

25 THE COURT: -- with the immediate issue today. Just

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1 tell me again. Mr. Pascuzzi gave me some cites, but I want to
2 make sure I got the right thing. Tell me, from your point of
3 view, what specific document do you want Trotter and Yanni to
4 sign? I mean, excuse me, the agencies to sign, is that 2.2 of
5 the settlement or is it a different paragraph of the trust?

6 MR. MOLTON: It's a --

7 THE COURT: What document?

8 MR. MOLTON: Judge, it's the trust agreement that Mr.
9 Pascuzzi related to you. There are two appendix -- there's a
10 number of appendixes to that, but two of -- I think exhibits --
11 I don't want to get it wrong. I don't have it in front of me.
12 But two of the appendixes or two of the schedules or two of the
13 exhibits there are the entity release and the individual
14 release.

15 THE COURT: Okay.

16 MR. MOLTON: We're asking them --

17 THE COURT: That's good enough. I have a hard copy of
18 it sitting two feet away from me --

19 MR. MOLTON: Yeah.

20 THE COURT: -- but I'm not going to try to read it
21 now.

22 MR. MOLTON: No, I don't -- but just three points,
23 Judge. Monetation strategy that Judge Trotter has to institute
24 regarding the monetation of the stock yet --

25 THE COURT: No, I get it. You've given me background

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1 that I know.

2 MR. MOLTON: Okay, so he's just --

3 THE COURT: It doesn't matter. The point is you and
4 the trustee want Mr. Pascuzzi and the feds to sign something.
5 I've got to look and see what they're asked to decide --

6 MR. MOLTON: Yeah, sure.

7 THE COURT: -- and decide whether or not they're
8 required or not. That's all.

9 MR. MOLTON: We duly respect, Judge. We think it's an
10 unremarkable ask, one that every other fire victim is being
11 asked to do. Thank you.

12 THE COURT: Mr. Pascuzzi, from an administrative point
13 of view, just dealing with multiple agencies, and I would
14 imagine Mr. Troy would have maybe even the same problem, is
15 there an internal administrative problem of processing
16 something like this, or does it take some senior executive to
17 make substantive decisions to sign something like this?

18 MR. PASCUZZI: Your Honor, it is very problematic, and
19 that's why it was a specifically negotiated issue when we
20 negotiated these agreements. The releases were specifically
21 negotiated, and lawyers from the Trustee's counsel, Brown
22 Rudnick firm, were involved in the negotiations of this
23 agreement, and the Section 3.11 of the settlement agreement
24 says the trustee is bound by the settlement agreement, and that
25 what they want us to sign is a two-and-a-half page general

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1 release, as you -- a government entity giving a general release
2 to anybody is a very big problem.

3 THE COURT: Okay, let's leave it at that. Let's leave
4 it at that because I've got to go back -- I have been putting
5 off other matters. I'm going to tell Mr. Molton, and you Mr.
6 Pascuzzi, if there's any chance of reaching an agreement
7 between now and sometime later, do so. If not, I'll just make
8 a decision on it. It seems to me, I just have to decide
9 whether it's a reasonable requirement of the agency, or it's an
10 unreasonable demand of the trustee, and it's that simple. I
11 don't think I'm going to blow the whole giant settlement up in
12 flames. I just have to make a decision one way or the other.

13 MR. PASCUZZI: Your Honor, to have to release a third-
14 party to get paid out of the bankruptcy is a problem. Thank
15 you.

16 THE COURT: Okay. Mr. Molton, I was expecting you,
17 and will invite you back if you want to make some general
18 comments to help me in terms of where we go, but not now. I
19 need to deal with the other matters.

20 MR. MOLTON: We understand, Your Honor, and I
21 understand you have other matters teed up right now. Thank
22 you.

23 THE COURT: Okay. Thank you.

24 So Ms. Parada, let's remove these two counsel out, and
25 let me look at the -- well, I see one hand up, but it's not a

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1 name I recognize, so I'm not going to recognize that person.

2 Mr. Karotkin, you've been quiet for the last ten
3 minutes. You've got fifteen emails telling you that
4 something's been solved and resolved, or no change?

5 MR. KAROTKIN: No, no change.

6 THE COURT: Okay. Then what do you have on your list,
7 other than my turning to the securities claims issues?

8 MR. KAROTKIN: I think there --

9 THE COURT: Anyone else that you think is expecting to
10 be heard, and I understand Mr. Bray and others are -- that's
11 still in play, but --

12 MR. KAROTKIN: I know Mr. Julian, I believe --

13 THE COURT: Well, yeah, he's going to come later, I
14 believe.

15 MR. KAROTKIN: Yes, he will.

16 THE COURT: My intention is to get Mr. Etkin, and then
17 Mr. Julian, and then at some point then your side, and the
18 shareholders have the -- essentially the closing, but obviously
19 this is not going in accordance with the traditional format.

20 MR. KAROTKIN: Okay.

21 THE COURT: Okay.

22 MR. KAROTKIN: I'm not aware of anything other than
23 Mr. Etkin, and then Mr. Julian, and then to the extent there
24 are still issues with the trust agreements, I think that was --

25 THE COURT: Do you want to stay on the panel here, or

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1 do you want to be put back in the audience?

2 MR. KAROTKIN: I don't mind staying, if you don't mind
3 looking at me.

4 THE COURT: Well --

5 THE CLERK: Excuse me, Your Honor?

6 THE COURT: Yes.

7 THE CLERK: Mr. Skikos, Mr. Mintz, and Mr. Kelly, have
8 raised hands.

9 THE COURT: Okay.

10 MR. KAROTKIN: Your Honor, actually I did neglect to
11 mention, we talked about this yesterday, that Mr. Skikos and
12 Mr. Kelly had asked for five minutes in connection with the
13 trust documents, I believe. And I think Mr. Mintz is speaking
14 on behalf of the -- what I'll call the Adventist group on that
15 issue, as well.

16 THE COURT: Okay. Okay. Why don't you stay on the
17 screen after all, Mr. Karotkin? Then bring those three in
18 please, Ms. Parada?

19 THE CLERK: And Ms. Winthrop has now also wished to
20 join.

21 THE COURT: Winthrop, Mintz, Kelly, Skikos, all of
22 them.

23 Good morning, Mr. Skikos. Need to tilt your screen a
24 little bit and unmute yourself. There you go. Thank you.

25 THE CLERK: And Mr. Skikos, please state your

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appearance for the record.

MR. SKIKOS: Good morning. Steve Skikos.

THE COURT: And Mr. Mintz, same. Your name. I know it, but say it again.

MR. MINTZ: Benjamin Mintz from Arnold & Porter. Counsel for AT&T.

THE COURT: And same, Mr. Kelly. Would you unmute and state your appearance and then Ms. Winthrop do the same please?

MR. KELLY: Yes, Your Honor. Michael Kelly, Walkup, Melodia, Kelly and Schoenberger.

THE COURT: He never went -- I'm not picking you up very good volume, Mr. Kelly. Can you get closer to your microphone?

MR. KELLY: Try that, Your Honor. Is that better?

THE COURT: That's good.

MR. KELLY: All right. Thank you. Michael Kelly on behalf of approximately 1,000 of my individual clients.

THE COURT: And Ms. Winthrop. Unmute. Unmute, Ms. Winthrop and state your name.

MS. WINTHROP: I'm sorry, Your Honor. It muted itself this time.

Good morning, Your Honor. Rebecca Winthrop of Norton Rose Fulbright on behalf of Adventist Health System/West and Feather River Hospital.

THE COURT: I can't fault anyone this morning since I

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1 managed to get my thing not to go out on myself.

2 Okay. Let's start with Mr. Mintz and Ms. Winthrop
3 because I -- this may be a follow-up from what we were talking
4 about yesterday, and then I'll come back to the other two.

5 Mr. Mintz?

6 MR. MINTZ: Thank Your Honor, and I'll be very brief.
7 We just wanted to report that we are continuing to work with
8 the trustee and the TCC on language revisions to the trust
9 documents to reflect Your Honor's order -- memorandum opinion.
10 Substantial progress in the regard, but we are still working
11 with them on further revisions. We hope that we will be able
12 to resolve all those issues and not have to bring anything to
13 Your Honor's attention. But we're not in a position to say
14 that yet today. The group of us have work -- committed to
15 working over this weekend to try to finalize that language and
16 be in a position to either have a resolution or an issue or two
17 to bring to Your Honor's attention by Monday or so.

18 THE COURT: Okay. Thanks very much. Keep up the good
19 work.

20 Ms. Winthrop? Same thing or different?

21 MS. WINTHROP: Your Honor, just that we are making
22 progress and we reserve judgment until we've had a chance to go
23 through those documents.

24 UNIDENTIFIED SPEAKER: Your Honor, may I interject
25 something? We received from Mr. Mintz this morning some

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1 revised language to the trust agreement that affects the
2 debtors which we really haven't had a chance to review, so we
3 may have some issues as well.

4 THE COURT: Okay. Keep at it.

5 Okay. Mr. Mintz, Ms. Winthrop, unless you want to
6 stick around, we'll put you back out in the audience, and then
7 I'll let Mr. Skikos and Mr. Kelly -- I don't imagine -- well, I
8 don't know -- well, I don't know if -- go ahead. Why don't you
9 -- I don't know what they're going to say so we'll leave you
10 here in case you want to respond.

11 Mr. Skikos, but -- I thought I was going to hear from
12 you yesterday so why don't you go first today?

13 MR. SKIKOS: Sure, Your Honor, unless Mr. Kelly wants
14 to go first.

15 MR. KELLY: Your Honor, may I go because I think Mr.
16 Skikos may have something to add to mine.

17 THE COURT: Okay.

18 MR. KELLY: And first of all, I appreciate the Court's
19 deferring me until today. I was tied up on a matter in Judge
20 Tighe's court yesterday. I intended to speak in concert with
21 Mr. Pitre. I appreciate the Court's deference. I have
22 prepared remarks which I promise will be less than five
23 minutes.

24 I want to make clear this morning, Your Honor, that I
25 speak on behalf of a thousand individual clients, not in my

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1 capacity as lead counsel in the JCCP, nor as an attorney
2 representing one of the members of the TCC.

3 And I speak this morning, Your Honor, in opposition to
4 any plan confirmation that does not incorporate fair
5 registration rights for the victims.

6 Mr. Karotkin spoke passionately both Wednesday in his
7 initial closing and yesterday in opposing Ms. Kane's motion
8 about the critical importance to his clients and individual
9 fire victims getting their money quickly. And with respect to
10 Mr. Karotkin, talk is cheap, Your Honor, particularly in this
11 case where this same mantra of paying the victims promptly and
12 fully has been mouthed since October of 2017, but no victim has
13 yet been paid and there is no guarantee of speedy payment or
14 that it will ever occur.

15 The single most controversial aspect of this plan for
16 the last eight months as the Court knows and remains the
17 uncertainty regarding --

18 THE COURT: Can you hear me?

19 MR. KELLY: Yes, Your Honor.

20 THE COURT: Isn't it highly likely if the plan is
21 confirmed and becomes effective that at least cash payments
22 will start fairly quickly?

23 MR. KELLY: Yes, Your Honor. But if the Court will
24 permit me to complete these prepared remarks, I believe you
25 will see that my focus is on the stock.

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1 THE COURT: I know.

2 MR. KELLY: And the cash represents only one half.

3 THE COURT: Well, I know that, but you made a
4 statement that nothing is going to go to the victims. I just
5 want to clarify.

6 MR. KELLY: No, Your Honor. I said nothing had been
7 paid to date and there is no guarantee so far of speedy payment
8 or payment (indiscernible).

9 THE COURT: Go ahead with your comments.

10 MR. KELLY: The single most controversial aspect of
11 this plan for the last eight months has been and remains the
12 uncertainty regarding the value of the stock acquired by the
13 individual victims while subrogation claimants and financial
14 backers of the plan get one hundred percent in cash.

15 By design, this aspect of the plan in its most optimal
16 form contains great risk to the victims. Make no mistake, this
17 Court's actions in confirming this plan will be judged in years
18 to come based on whether the Court did everything that could be
19 done to protect the value of the stock which the individual
20 victims were required to accept. And this Court should not
21 confirm a plan where that risk of stock value loss is clearly
22 and avoidably increased by the refusal of the proponents to
23 guarantee in a publicly disclosed, unambiguous writing not to
24 disadvantage the fire victims in their ability to sell stock by
25 a mutually agreeable formula relating to all parties.

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1 We should not confuse efforts with results. Putting a
2 lot of time and effort into a plan to protect the individual
3 victims which cannot be executed will be a failure. Whether
4 the plan looks good on paper is irrelevant if in execution, it
5 results in a failure to compensate the heirs of those burned to
6 death and the thousands of homeowners, renters, small business
7 owners, and community members who have been forced to accept
8 fifty percent of their gross compensation in stock.

9 That stock value must be safeguarded by this Court and
10 maximized if the plan is to succeed. Thomas Edison said,
11 "Having a vision for what you want is not enough. Vision
12 without execution is a hallucination." The reorganization plan
13 that makes promises which cannot be kept or which are not kept
14 and which is structured in a way that invites failure in the
15 execution is not a plan that should be confirmed.

16 This Court betrays the individual fire victims by
17 approving and confirming a plan which permits the debtor to
18 carry out stock sales by its financial backers, institutional
19 investors, and backstop parties before the victims or which
20 delays the victims' ability to liquidate their stock at optimal
21 value when the trust actually needs the money.

22 The moms and dads, brothers and sisters, aunts and
23 uncles who have lost loved ones as well as their homes,
24 businesses, and treasured possessions are entitled to have this
25 Court do everything in its power to make the goals stated by

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1 Mr. Karotkin a reality.

2 That is only accomplished by this Court mandating a
3 fair and victim-sensitive process for stock liquidation via an
4 approved registration rights agreement. Without a public,
5 fair, and court-approved binding registration rights agreement
6 that protects the victims' economic rights, the plan should not
7 be confirmed. Consigning this issue to be negotiated in a back
8 room without Court approval undermines the public's trust in
9 this Court and does a disservice to the victims.

10 We trust that the Court will respect these concerns,
11 and will withhold confirmation until either an agreeable
12 registration rights agreement is in place or itself craft a
13 registration rights agreement consistent with Mr. Pitre's
14 request yesterday and Mr. Skikos' views this morning.

15 The Court will recall yesterday that Mr. Pitre did
16 suggest that this Court could require a one-sentence provision
17 on restrictions relative to when shares of stock can be sold.
18 The terms should be the same for fire victims and the backstop
19 parties. A level playing field for all.

20 Thank you for listening, Your Honor.

21 THE COURT: Thank you, Mr. Kelly. Appreciate your
22 comments.

23 Mr. Skikos?

24 MR. SKIKOS: Thank Your Honor. Steve Skikos. First,
25 I have to echo Ms. Winthrop and Mr. Mintz that we are making

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1 progress. You don't have to worry about me saying anything
2 there.

3 Second, with respect to the concerns raised by Mr.
4 Abrams, Ms. Wallace, Ms. Sedwick -- and I listened carefully
5 yesterday, and I've been in front of this Court nine times, and
6 in nine times that we've been talking together, we've talked
7 about one basic issues, which is the meaningful inclusion of
8 the fire victims in the process. And whether it's the fire
9 victim database or the notice program or the bar date or the
10 voting, it's -- our discussions have always been about
11 including the fire victims in the process, informing them, and
12 empowering them to make meaningful decisions. They can be
13 trusted with information.

14 And in this particular case, no one is -- there's some
15 misunderstandings out there. Plan confirmation order does not
16 establish with certainty that the fire victims are going to be
17 paid. It's a major step. The same conversation you and I had
18 on February 11th, and there's only one plan on which to vote.
19 There's never been more than one plan before this Court.

20 And because of the 1054 deadlines, we have an
21 imperfect set of information in front of Your Honor that cannot
22 answer Ms. Wallace's questions or Mr. Abrams' concerns. For
23 example, Ms. Wallace questions -- which are legitimate -- when
24 she's going to get paid. What's her discount? How much?
25 When's the trust going to be funded? All these things are

PG&E Corporation and Pacific Gas and Electric Company
legitimate concerns.

But I have to agree with Mr. Karotkin that absent confirmation, the results would be draconian. He said the distribution to the fire victims and the other claimants would be delayed for months and years, and that includes the insurance companies and the bond holders and the backstop parties with their fees and the other creditors.

And so we don't want to take the overwhelming risk of failure, which is what Mr. Karotkin said yesterday. And so your decision on plan confirmation -- you've asked us to take one of three paths: yes, no, or add something to the confirmation that would make it better.

And so we have been under subject of confidential mediation for months on major issues, and the votes was (sic) going on at the exact same time and that's unfortunate.

But Your Honor doesn't have access to the (break in audio) discussing (break in audio).

THE COURT: Your voice is dropping off. I can (break in audio).

MR. SKIKOS: I said, Your Honor doesn't have access to the information that we've been discussing in these confidential mediations.

THE COURT: Right.

MR. SKIKOS: Neither do the fire victims. And so your decision on plan confirmation is very similar to what the fire

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1 victims had to vote on, which is imperfect information with
2 limited choices.

3 And as Mr. Kelly said, and he actually said this to me
4 last night, this case is not about plan confirmation. I think
5 everybody wants a plan confirmed, including Mr. Abrams.
6 Including Mr. Tosdal and the Kanes and Scarpulla and Hallisey.
7 They all want it confirmed. What they want is the reduction of
8 risk, and so there are two important dates that I would like to
9 give Your Honor.

10 The first date is Thanksgiving 2020 and the second
11 date is December 31st, 2021. Thanksgiving 2020 is the date the
12 fire victim trust should be -- I mean, we should know if the
13 fire victim trust is funded. We should know the value of the
14 fire victim stock. We know if the safety changes that Mr.
15 Orsini has been working on are going to work. We will know if
16 there's another massive fire or huge blackouts. And by
17 December 31st, 2021, we're going to know the impact of this
18 plan. We're going to know the legacy of this (break in audio).

19 We're going to know the disposition of the stock.
20 We're going to know the claims process and the payments to the
21 fire victims and hopefully, they'll be paid in full by then.

22 Hopefully, we will be able to answer Mary Wallace's
23 questions by then, affirmatively and practically. And we will
24 know the impact of this plan on other utilities, the rate
25 payers, the citizens of California, and god forbid, another set

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1 of fire victims.

2 So I have two simple ways that we can, without
3 disrupting the plan, help empower fire victims to at least know
4 what's going on. Number one, the plan confirmation order
5 should require that the debtor set forth a tentative emergent
6 date and funding schedule.

7 I'm so deep in the registration rights mediations. I
8 know all the messes of that. But it's not too hard to say what
9 the tentative emergent state is and the funding schedule. And
10 here's why. People's lives are on hold. They can't -- they
11 have -- they're in the process of rebuilding their homes and
12 their lives and there are critical benefits under 1054 that are
13 available to protect the parties in this case, and the risks
14 and consequences of failing to meet 1054 are so great that we
15 can't take that chance that they don't emerge before the next
16 major fire. They may not be emerging for years. And Mr.
17 Karotkin's statements about an overwhelming and draconian risk
18 come true, not because we didn't confirm the plan, but because
19 we didn't successfully emerge.

20 And I'm not going to go into Judge Alsup's orders or
21 the Cal Fire -- you know this history better than anybody.
22 You've had these hearings -- you've had this bankruptcy and the
23 previous bankruptcy. No one needs to lecture you on this
24 company.

25 What we need to do though is make sure that we don't

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1 come into a situation where the fire victims would have done
2 better under Chapter 7 than they would have here under your
3 best-interest tests. What we need to do is tell the fire
4 victim community a schedule. This is what we plan on doing.
5 This is not too much to ask.

6 The second thing is the plan confirmation order shall
7 provide a clear schedule of rights, restrictions, and blackouts
8 for both the fire victim trust and the backstop shareholders
9 for this Court's approval. So the Court maintains jurisdiction
10 over the approval of the terms and it's up to the Court to
11 ensure that this is fair to the fire victims and the backstop
12 shareholders.

13 Now, there's one exception to that, and that is if
14 there was an arbitration on this particular issue, but we
15 haven't agreed to.

16 So I'm going to try and define some terms so they're
17 clear. Restrictions and blackouts. It has to be transparent
18 to the fire victims in clear language, no double negatives, so
19 that they can understand it, and there are only two questions
20 to make this simple to understand. For how many years will it
21 take for the fire victims and/or backstop parties to dispose of
22 the stock that is the result of the plan.

23 And the second question is what is the assignment of
24 risk for the upcoming fire seasons. Because the primary goal
25 of this bankruptcy is to provide prompt and expeditious payment

PG&E Corporation and Pacific Gas and Electric Company
1 to the fire victims. We've heard that since April of 2019.
2 We've heard that during these closings. And that's wonderful.
3 And let's presume that to be true and I really believe that Mr.
4 Karotkin and Mr. Orsini really want that to happen.

5 But there's a second part of it, and we have to be
6 honest about the other part of this. The shareholders are
7 preserving their equity. They are -- they've purchased and
8 they're going to cash out on the subrogation claim. Fine.
9 They made a great procedural maneuver. They've got the control
10 of negotiations with the governors and with the fire victims
11 and they've given themselves a huge backstop.

12 And let's be honest about this case. This case
13 settled -- we talked about this on February 11th. This case
14 settled because Your Honor sent estimation to Judge Donato.
15 Your Honor sent Tubbs to the state court for discovery. Your
16 Honor moved the bar date after Judge Donato when they reported
17 that there was only going to be forty to fifty percent
18 participation and Judge Donato said it would be a heart-
19 breaking shame -- you did this. You lifted exclusivity. The
20 bondholders came in, and they tried to take over the company,
21 and the shareholders then came to us.

22 And what I'm saying here is very simple. We can be
23 trusting. We can be compliant. We can want the plan
24 confirmed. But let's not undisclose the most important issues
25 left in this case which is how long is it going to take for the

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1 fire victims to dispose of this stock.

2 Once we know that -- and remember, the fire victims
3 never voted on this issue. It's been subject to confidential
4 mediation. Once we know that and it's transparent, we should
5 be able to get this done and hopefully by Thanksgiving of this
6 year, everybody will be looking back at this bankruptcy and
7 saying, great job.

8 Thank Your Honor.

9 THE COURT: Mr. Skikos, I've got no questions.

10 If the mediation concludes successfully, and my
11 understanding is there will be a rights agreement. Right?

12 MR. SKIKOS: Yes.

13 THE COURT: Okay. And presumably, I have to approve
14 it. Maybe I don't have to approve it, but there will be one
15 that will be the product of negotiations among the principal
16 players. Obviously, you know who they are. I don't need to
17 know. And presumably, that document will answer many of the
18 questions that you've just put in category 1 of the two
19 questions.

20 But category 2, what was the assignment of risk to the
21 victims, I'm not sure how anybody knows that. That's the kind
22 of thing that Mr. Abrams talked about yesterday. The risk to
23 the victims is the risk to all of us in Northern California.
24 It had nothing to do with the rights agreement, right?

25 MR. SKIKOS: No, no. That's not true.

PG&E Corporation and Pacific Gas and Electric Company

1 THE COURT: Okay.

2 MR. SIKOS: Let me answer that.

3 THE COURT: Well, then, maybe I was -- you were
4 focusing on -- I was thinking of fire risk. You were thinking
5 of what? The risk of being stuck --

6 MR. SIKOS: The comparative sell-off risk.

7 THE COURT: Okay.

8 MR. SIKOS: So if there's a fire, God forbid, in
9 November of 2020 and the backstop shareholders have
10 successfully left and the fire victims are restricted or cannot
11 sell during a fire -- it has nothing to do with the actual risk
12 of fire.

13 THE COURT: Okay. Then, I got it. But yesterday, I
14 don't know if you were participating or off doing something
15 else. It doesn't matter. I think it was yesterday. It might
16 have been Wednesday. I've lost track of days. Mr. Karotkin,
17 in response to a question of mine said, well, I could confirm
18 the plan even in the absence of a rights agreement, but the
19 effective date wouldn't happen. And I made the observation,
20 then what's the point of having a confirmed plan?

21 In other words, AB 1054 is a pretty clear -- not a
22 hundred percent clear -- deadline of June 30th. So that is a
23 message to me as the presiding bankruptcy judge. I need to
24 sign an order prior to June 30th. But what is the meaning of
25 that order if there's no effective rights agreement and

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1 therefore the plan never has an effective date.

2 MR. SIKOS: Well, the -- so first, you can confirm
3 the plan without a registration rights agreement.

4 THE COURT: Correct.

5 MR. SIKOS: I think that's pretty clear.

6 Second, we have to get this thing done. We have to
7 get this thing done now so that it can be -- so that they can
8 do their rights offering. And I won't go into the details of
9 all --

10 THE COURT: No, but you're going around in circles.
11 Pretend it's June 30th. Leave aside the bankruptcy fine points
12 about finality versus appeals. Let's just say that by June
13 30th, I, as the presiding bankruptcy judge, has done what the
14 State of California through AB 1054 has said needs to be done
15 for triggering their go-forward fund, et cetera, et cetera.

16 But then on July blank or August blank, there is not
17 effective date. I'm not sure what happens. But if there's not
18 right to agreement, there's no effective date. Agree?

19 MR. SIKOS: I think there's two issues here. First,
20 the word "exit" under 1054. "Exit" under 1054 has a specific
21 definition. And then the second, if there's no rights --

22 THE COURT: By the way, the Bankruptcy Code, as I
23 recall, doesn't define "exit".

24 MR. SIKOS: Right.

25 THE COURT: It's not a bankruptcy term.

PG&E Corporation and Pacific Gas and Electric Company

1 MR. SKIKOS: I learned that as a young bankruptcy
2 lawyer that "exit" is not a bankruptcy term, but it seems to be
3 interpreted as emergence.

4 So we all want emergence before -- you know, before
5 the next fire, and certainly before June 30th. The question of
6 the registration rights agreement is they need that in order to
7 do the offering. So we have to get that done.

8 THE COURT: I know that.

9 MR. SKIKOS: I can't control the date that that's
10 done. And I know we're all working very hard. There was a
11 call last night. But I don't have a specific answer to your
12 question if it's not done. We either go to arbitration on
13 Monday or Tuesday or Wednesday with Judge -- with Mr. Meyer or
14 Judge Meyer. Or we come to you right now. But it has to be
15 done now.

16 THE COURT: Well, okay. Let's hope that that that
17 arbitration sets the state to do whatever would be done
18 consensually, because I'm not sure what I could do or would be
19 asked to do.

20 But let's defer that. I got your point. You made it
21 clear to -- from -- to me at least what you think is so
22 critical for the victims, and I certainly -- you say it as a
23 lawyer. Ms. Wallace says it as a victim yesterday or survivor
24 -- better term. And Ms. Sedwick, to some extent, who -- other
25 -- I got the message, Mr. Abrams. Those are all three

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1 outspoken people and you are a good -- Mr. Kelly, a good
2 spokesperson for them.

3 And I appreciate your comments.

4 So let's conclude it at that unless any of you have
5 anything further to say at this point. I'm going to look at my
6 watch here. Yeah. I'm going to probably take a short break
7 and then go to the next thing that's on our agenda.

8 So I'll let you all go.

9 MR. SKIKOS: Thank you, Your Honor.

10 THE COURT: Thank you for your time.

11 All right. And Ms. Parada, let's move all the
12 speakers out except Mr. Karotkin. Let me just check the --
13 okay. I think -- let me just think about them here for a
14 minute.

15 I'm going to take a ten-minute break for everyone's
16 convenience where -- it's a little early, but then when we come
17 back, I will call on Mr. Etkin or whomever from his firm or his
18 side of this case who are going to make the argument. I
19 authorized them -- or allocated them an hour and I gave them a
20 homework assignment, and I know Mr. Etkin has a PowerPoint.

21 So as we did yesterday, I'm going to just turn off my
22 mic and my video and leave the thing running and hopefully,
23 keep my internet connection, and we'll see you all at 11 IR
24 (phonetic) time. 2 o'clock New York time.

25 Thank you.

PG&E Corporation and Pacific Gas and Electric Company

1 (Whereupon a recess was taken)

2 THE COURT: And bring Mr. Etkin in, please.

3 THE CLERK: Yes, Your Honor. Mr. Etkin is joining.

4 Mr. Etkin, please unmute your microphone and state
5 your appearance.

6 MR. ETKIN: Yes. Good afternoon, at least here, Your
7 Honor. Michael Etkin, Lowenstein Sandler for the securities
8 plaintiffs.

9 I -- yeah.

10 THE COURT: Did Mr. Behlmann want in also?

11 MR. ETKIN: Your Honor, I was going to ask. Actually,
12 the game plan here is Mr. Behlmann will be taking most of the -
13 - making most of the argument. I have some remarks, closing
14 remarks at the end. Mr. Behlmann will be going through the
15 PowerPoint, and I'd also, with the Court's permission, ask the
16 Court to bring Mr. Dubbs in as a participant. There are no
17 plans currently for him to present, but I think just in case
18 there are questions or other things come up during the course
19 of the argument, we would appreciate it if he could be brought
20 into the room as well.

21 THE COURT: All right. Ms. Parada, would you bring
22 Mr. Behlmann in and do you have the other person?

23 MR. ETKIN: Mr. Dubbs, Your Honor.

24 THE COURT: Yeah. I don't know if he is -- Ms.
25 Parada, do you have him on the list?

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1 THE CLERK: No, Your Honor. I do not see -- Dubbs,
2 you said? D-U-B-B-S?

3 MR. ETKIN: Yes. Thomas Dubbs.

4 THE COURT: Wait. Let's get Mr. Behlmann. Would
5 unmute, Mr. Behlmann, and make your appearance?

6 MR. BEHLMANN: Good morning, Your Honor.

7 THE COURT: Mr. Behlmann.

8 MR. BEHLMANN: Andrew Behlmann.

9 THE COURT: Okay. We don't see -- Ms. Parada can keep
10 track of who is on the attendance, and so can I, actually. And
11 I don't -- what's Mr. Dubbs first name?

12 MR. ETKIN: Thomas, Your Honor.

13 THE COURT: Because our little list of hands that go
14 up is by first names. And now -- no, I don't see him. But if
15 he joins -- if he -- (indiscernible)

16 THE CLERK: Excuse me, Your Honor. I see a hand
17 raised with just the letter "T".

18 THE COURT: Well.

19 MR. ETKIN: He may not -- Your Honor, he might not
20 have identified himself fully by name.

21 THE COURT: Okay. Let's -- Mr. Tubbs, if you are the
22 person who is identifying yourself as "T", lower your hand.

23 All right. Bring him in, please, Ms. Parada. I guess
24 that's the -- he did, but he didn't put his name up.

25 MR. ETKIN: Apologies, Your Honor.

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1 THE COURT: You don't have to apologize for somebody
2 else.

3 MR. ETKIN: Well, part of our team, Your Honor, so I
4 take responsibility.

5 THE COURT: Ms. Parada, while we're waiting, when Mr.
6 Etkin was speaking, his voice was breaking up a little.

7 THE CLERK: I'm sorry, Your Honor, your voice --

8 THE COURT: And then we --

9 THE CLERK: -- your -- your connection --

10 THE COURT: -- hearing him clearly or was it a problem
11 on my end?

12 THE CLERK: Mr. Etkin was breaking up --

13 THE COURT: My connection is bad now? Okay. Hold on.
14 I don't know why this keep happening to me today. Well, this
15 thing is real quirky today. Let's give it a try.

16 Mr. Behlmann, you have an hour allocated and I'm going
17 to try to listen without -- see if I can hear you, so go ahead
18 and you have the floor. And I guess you got the question I put
19 out to you -- the hypothetical I put to you before, right?

20 MR. BEHLMANN: I do, Your Honor. And if it's
21 acceptable to Your Honor, I think that that hypothetical
22 dovetails nicely with our discussion about the distribution
23 formula with comes a little bit later in our presentation. If
24 it's okay with you, we can address it then or we can address it
25 now.

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1 THE COURT: All yours. You got the hour.

2 MR. BEHLMANN: Thank you, Your Honor. Just so you
3 know, we're going to deal with the hypothetical, but we'll deal
4 with it in a little bit once we get to that point in the
5 presentation.

6 Good morning, your Honor. As I mentioned before,
7 Andrew Behlmann, Lowenstein Sandler on behalf of the Public
8 Employees Retirement Association of New Mexico, which is also
9 referred to in this case as PERA.

10 PERA is the court-appointed lead plaintiff in a
11 federal securities litigation that's pending in this district
12 before Judge Davila.

13 Very quickly, Judge, who is PERA? PERA is the
14 administrator of retirement funds of public employees in the
15 State of New Mexico. PERA provides benefits to over 40,000
16 retirees, beneficiaries, and co-payees and has over 50,000
17 active members at this time. PERA's participants, Your Honor,
18 include state, county, and municipal employees, police,
19 firefighters, judges, magistrates, and legislators. All public
20 employees, obviously, as you'd expect by the name.

21 Your Honor, we want to spend maybe a minute clearing
22 up a couple of misconceptions that have been created by the
23 plan proponents. One is regarding PERA's claim. As Mr.
24 Johnson pointed out on Wednesday morning, PERA did file a proof
25 of claim in response to the extended bar date notice that was

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1 claim number 101691, asserting a claim of about 119,000
2 dollars.

3 We, as counsel, did not file that claim. That was
4 filed directly. However, the equity plan proponents, the one
5 and only constituency in this case that has an actual economic
6 incentive to disenfranchise class 10A-II forgot to mention on
7 Wednesday morning in trying to downplay PERA's role that PERA
8 already had a proof of claim on file. That's claim number
9 71345. That was file in advance of the general bar date in
10 October 2019, Your Honor.

11 That proof of claim included a schedule of PERA's
12 transactions in PG&E public securities during the class period,
13 which included, among other things, purchases during the class
14 period of 364,557 shares of PG&E common stock at an aggregate
15 price of over \$22.2 million.

16 So obviously, PERA's claim in class 10A-II is quite
17 significant, and it's certainly not a bit player with respect
18 to class 10A-II. We're here for real purposes.

19 THE COURT: But still, it's still presently an equity
20 holder then also, right?

21 MR. BEHLMANN: As I understand, Your Honor, it not any
22 longer.

23 THE COURT: Okay.

24 MR. BEHLMANN: Second, Your Honor, just wanted to
25 clear up briefly PERA's role as the lead plaintiff in the

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1 securities litigation. There has been some insinuation during
2 the course of the case that PERA was a, quote, self-appointed
3 lead plaintiff. I believe that came up in an earlier hearing.
4 That's entirely correct. PERA did voluntarily choose to file a
5 lawsuit, and it did voluntarily move for appointment as lead
6 plaintiff in the securities litigation. Several cases were
7 consolidated into the case that's not pending before Judge
8 Davila, and there were six competing motions filed seeking
9 appointment as lead plaintiff. The other movants ultimately
10 withdrew their motions, and PERA was appointed on an
11 uncontested basis, but the fact remains that PERA was appointed
12 lead plaintiff in the securities litigation by an order of the
13 district court, pursuant to the PSLRA.

14 Strictly in the context of these Chapter 11 cases,
15 Your Honor, in light of the denial of the Rule 7023 motion,
16 it's fair to say that PERA is acting primarily on its own
17 behalf at the moment. As I mentioned before, PERA has a fairly
18 substantial class 10A-II claim.

19 PERA is also acting on its own behalf though without
20 losing sight of its role and its duties as lead plaintiff in
21 the securities litigation because it remains that PERA is the
22 lead plaintiff in the securities litigation

23 Those duties include safeguarding the rights and
24 claims of thousands of absent class members including the
25 nearly 7,000 proofs of claim that have been filed so far since

PG&E Corporation and Pacific Gas and Electric Company

1 the extended bar date to protect those folks' rights from being
2 disenfranchised by the plan as well as PERA's own rights.

3 A little bit about the securities litigation just to
4 set the table, claims that we're dealing with and the claims
5 that we're talking about. Your Honor, PERA asserts claims in
6 the securities litigation and through its proofs of claim in
7 class 10A-II against the debtors under the Securities Exchange
8 Act of 1934. It asserts those claims against both the debtors
9 and outside the context of this bankruptcy class obviously
10 against certain of the current and former officers and
11 directors of the debtors.

12 There's three additional named plaintiffs in the
13 securities litigation. They're public and union retirement
14 funds that assert claims under the Securities Act of 1933
15 against each of the debtors as well as certain of their current
16 and former Ds and Os and the underwriters of certain of their
17 public notes offerings.

18 The claims and the securities litigation, Your Honor,
19 and this is an important piece to note that we'll touch on a
20 little bit later in some detail and you'll see why it's
21 important -- claims in the securities litigation are asserted
22 on behalf of a class of purchasers -- a proposed class that has
23 not yet been certified because motions to dismiss are still
24 pending -- purchasers to the debtors' public securities between
25 April 29th, 2015 and November 15th, 2018 inclusive. That's

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about a three-and-a-half year class period.

Motions to dismiss the securities litigation were
fully briefed in January of this year. The third amended
complaint is quite lengthy and quite extensive, so those
motions to dismiss are still pending awaiting decision before
Judge Davila.

Briefly, with respect to PERA's confirmation
objection, Your Honor, and if I may, with the Court's
permission, we filed a set of demonstrative slides that both
summarize certain pieces of our argument and summarize certain
things that are already in the record in the case at docket
number 7791 (break in audio) ask to just share those on the
screen now for Your Honor's benefit and for the benefit of all
participants.

THE COURT: (Break in audio).

THE CLERK: Excuse me, Your Honor. Your voice is
cutting in and out.

THE COURT: Now can you hear me? Hear me?

THE CLERK: Yes.

THE COURT: Okay.

MR. BEHLMANN: Your Honor, I have those available on
the system to share if it would be acceptable to the Court.

THE COURT: (Break in audio). Okay. Wait a minute
then. It's the audio.

Ms. Parada (break in audio) a problem with the voice?

PG&E Corporation and Pacific Gas and Electric Company

1 THE CLERK: Yes. I'm having trouble hearing you.

2 MR. BEHLMANN: Your screen appears to be frozen as
3 well, Your Honor.

4 THE COURT: (Break in audio) have to try again. Mr.
5 Behlmann to wait and I'm going to try to re -- re -- to attach
6 them to a document that you just filed so it's on the docket
7 because we have -- we're recording this as our own internal
8 record, but to the extent that you want to use the
9 demonstrative as the record, put them on the docket. I'm going
10 to stay without a video here for a while so I can listen to the
11 argument. So go ahead and resume, and I'm certainly not going
12 to hold any time against you because of my break -- because of
13 my confusion here.

14 MR. BEHLMANN: I appreciate that, Your Honor. I
15 certainly understand the difficulties of the remote procedure.

16 Your Honor, we did actually -- we filed these in
17 advance of the hearing at docket number 7791 so they are in the
18 docket with a notice.

19 Your Honor, we have four principal areas of concern
20 with respect to the plan its current form. I want to make one
21 thing clear though, before we delve into those issues. And
22 Your Honor had asked parties in one of your docket text orders
23 to make this point clear. We want to make it clear up front.
24 We do not oppose confirmation of this plan as a general matter.
25 We recognize the importance, the significance, and the urgency

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1 of confirming this plan, funding the fire victim trust, and
2 getting PG&E out of Chapter 11 by the AB 1054 deadline.

3 We're not here today to try to hold any of that up.
4 But the momentum of the case doesn't mean that the plan has to
5 be confirmed as is. There are a few specific problems that we
6 discussed in our pleadings, and we'll address in a little more
7 detail today in light of the testimony, the opening arguments,
8 and the debtors and other plan proponents' confirmation brief.

9 We believe all the issues we're about to address can
10 and indeed must be fixed before the plan can be confirmed. As
11 Your Honor will see, we think the fixes are pretty
12 straightforward. For each of these issues, we're going to
13 propose a specific fix that we think your Honor can implement
14 without much friction and get the plan confirmed.

15 So first, Your Honor, is the plan injunction. Second
16 is the classification and treatment of precision or damage
17 claims against the utility. Third is the distribution formula.
18 You won't be surprised to hear, Your Honor, particular in light
19 of the opening argument from the plan proponents that that does
20 have a number of moving pieces and we will address Your Honor's
21 hypothetical in connection with that discussion. And finally,
22 (indiscernible), which obviously ties into the distribution
23 formula because class 10A-II is an impaired, nonaccepting class
24 because the class voted to reject the plan.

25 So first the plan injunction. Nobody in the virtual

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1 courtroom, Your Honor, disputes that nonconsensual third-party
2 releases are unequivocally, categorically forbidden as a matter
3 of law in the Ninth Circuit. That's clear.

4 The plan makes that clear. Mr. Wells' direct
5 testimony in support of confirmation makes that clear. And
6 frankly, Mr. Karotkin's opening argument makes that clear. Mr.
7 Karotkin specifically said on Monday, there are no -- quote,
8 there are no involuntary third-party releases in this plan.
9 None. It could not be clearer. End quote.

10 Quote, the only third-party releases in this plan are
11 purely an affirmative opt-in. Close quote.

12 So it's clear that the third-party release is within
13 the boundaries of Ninth Circuit law. What is in issue for
14 today, though, and predominantly from PERA's perspective and
15 from the perspective of class 10A-II and the other folks with
16 claims against the nondebtors that are involved in the
17 securities litigation is that the plan injunction cannot --
18 although it appears to attempt to -- enjoin nondebtor third
19 parties such as PERA and the other securities plaintiffs from
20 pursuing certain claims against other debtor third parties such
21 as the individual defendants in the securities litigation.

22 Your Honor, the injunction in Article 10.6 of the plan
23 says, in pertinent part, that if you hold, held, or may hold a
24 claim against or interest in the debtors -- which obviously
25 folks that hold claim in 10A-II fit into several of those

PG&E Corporation and Pacific Gas and Electric Company
categories -- you're permanently enjoined from taking any
action, quote, affecting directly or indirectly a debtor, a
reorganized debtor, or an estate or the property of any of the
foregoing.

There is a leading qualifier in there that should
dispose of this issue. There -- the permanent injunction
that's contained in Article 10.6 by its terms applies to those
parties, quote, with respect to any such claim or interest.

The problem from our perspective, Your Honor, is the
debtors have previously taken the position elsewhere in this
bankruptcy case much earlier that the claims asserted in the
securities litigation against the nondebtor defendants and in
particular, the directors and officers, are effectively claims
against the debtors.

The debtors, Your Honor, have chosen to assume their
pre-petition indemnification obligations to current and former
Ds and Os to the plan, so it's not a stretch to see that
argument coming up in the future that if you're suing a D and O
to whom the debtors have assumed indemnification obligations,
then, that lawsuit is a claim that could impact the property of
the reorganized debtors. The reorganized debtors, in theory,
might have to pay out in that indemnity claim that they've
chosen to assume.

If the plan injunction were applied to the claims
asserted against the nondebtor defendants in the securities

PG&E Corporation and Pacific Gas and Electric Company

1 litigation, it would create the same net effect as an
2 impermissible, nonconsensual third party release. It would
3 render claims of nondebtors against other nondebtors dead in
4 the water.

5 Your Honor, we believed at the disclosure statement
6 stage that this was simply -- this was just a drafting
7 ambiguity. And we raised this issue at the disclosure
8 statement stage. Unfortunately, the debtors did not fix it
9 then and the can got kicked down the road, so here we are
10 today.

11 If the debtors aren't trying to conduct an end-run
12 around the prohibition on nonconsensual third-party releases
13 through the injunction, which is something that American
14 Hardwoods said a plan cannot do in the Ninth Circuit, the plan
15 needs to say so or the confirmation order needs to say so.
16 It's really that simple.

17 And from our perspective, the fix is very, very
18 simple. It's just an insertion into the confirmation order,
19 Your Honor. It's one paragraph -- it's barely even a
20 paragraph; it's one sentence that simply carves the securities
21 litigation claims against the nondebtors out of the scope of
22 the plan injunction so that no party can come in down the road
23 and say, Your Honor, these claims potentially impact the
24 reorganized debtors; we want you to freeze them; we want you to
25 put them on hold. The release can't do that; we don't think

PG&E Corporation and Pacific Gas and Electric Company
the plan injunction should be able to do that, either.

Our second issue, Your Honor, is the classification and treatment or lack thereof of claims other than the Class 10A-II HoldCo rescission or damage claims arising from the purchase of common stock of HoldCo. The issue is that the plan specifically classifies rescission or damage claims against HoldCo arising from the purchase of common stock of HoldCo during the class period.

What the plan does not deal with are similar claims, so claims against the utility, against Pacific Gas & Electric Company, based on statements, misstatements by the utility's own personnel that are not overlapping -- certain of them do not overlap with PG&E Corporation, the HoldCo -- that in turn artificially increase the price of PG&E Corporation common stock which was then purchased by class members during the class period. That is an entirely separate class of claims.

Those claims, Your Honor, are asserted in the third amended complaint that's on file in the securities litigation. They're incorporated by reference into the completely separate proof of claim that PERA filed against the utility that incorporates, by reference, the allegations from the third amended complaint. So we took those; we imported them into the proof of claim. That proof of claim is asserted against each of the debtors, both the utility and HoldCo.

The debtors --

PG&E Corporation and Pacific Gas and Electric Company

1 THE COURT: Mr. Behlmann, what about you --

2 MR. BEHLMANN: Yes, Your Honor?

3 THE COURT: Even in your brief, you acknowledge the
4 Ninth Circuit Del Biaggio decision; it seems to close the door
5 and say it's effectively a claim against HoldCo.

6 MR. BEHLMANN: Your Honor, yes and no. And the plan
7 proponents would certainly have Your Honor believe that by
8 virtue of Del Biaggio and by virtue of the Lehman decision that
9 was adopted in Del Biaggio that those claims just sort of
10 magically fold into the other claims that exist against HoldCo.

11 But the situation here is a little different. They
12 are -- under Del Biaggio, those claims are hypothetically sort
13 of superimposed on HoldCo's capital structure for purpose of
14 determining the priority of those claims. But these two
15 debtors are not substantively consolidated. So --

16 THE COURT: They weren't in Del Biaggio.

17 MR. BEHLMANN: But here, we've got separate
18 independent claims arising from independent misstatements
19 against each of the debtors. They're two totally separate
20 claims. They happen to have the same priority, so if you pick
21 up the 510(b) claim against the utility and you bring it over
22 to HoldCo, it has the same priority as HoldCo common stock.
23 But nothing about that changes the legal reality that it is a
24 separate and independent claim. It is a claim that stands on
25 its own.

PG&E Corporation and Pacific Gas and Electric Company

1 THE COURT: What's the remedy? What do you get if you
2 win?

3 MR. BEHLMANN: Well, Your Honor, the plan -- so two
4 things. I believe the plan proponents have articulated a
5 concern that classifying and treating these claims could result
6 in a double recovery. We don't think that's correct.
7 Ultimately, the amount of a given claim is a fact for
8 determination sometime down the road. I think you heard Mr.
9 Johnston say on Monday -- Monday morning? -- Monday morning
10 that that's not going to occur for at least months after
11 confirmation if it gets through.

12 THE COURT: That's not answering my question. How do
13 you have an equity claim against somebody that doesn't have any
14 equity? Just --

15 MR. BEHLMANN: 510(b), Your Honor, expressly
16 contemplates that prospect. If you look at the plain language
17 of 510(b), it subordinates claims not only against a debtor
18 arising from the purchase or sale of a security of that debtor
19 but of a purchase or sale of a security of an affiliate of the
20 debtor.

21 THE COURT: I know.

22 MR. BEHLMANN: So here -- it's a claim against --

23 THE COURT: That's exactly -- excuse me. That's
24 exactly what Del Biaggio says. The decision goes through the
25 cases and adopts the Second Circuit interpretation of this

PG&E Corporation and Pacific Gas and Electric Company

1 notion of superimposing the situation on the corporate entity.
2 Obviously, we have two corporations here. Del Biaggio was an
3 individual. But the same concept was to take an equity claim
4 and move it to an equity claim against the corporate entity. I
5 don't know how -- I mean, I understand what you're trying to
6 say. I don't know how there's any option but to follow the
7 holding of that binding decision. Why isn't that decision
8 controlling on this issue?

9 MR. BEHLMANN: Because the claims we're talking about,
10 Your Honor, are a very specific subset of the claims that have
11 been asserted. There are claims that have been asserted
12 against only the utility. There are claims that have been
13 asserted against HoldCo, there are claims that have been
14 asserted against the utility, and there are claims that have
15 been asserted against both.

16 If a claim was asserted against HoldCo, obviously we
17 know it's a claim against HoldCo. If a claim has been asserted
18 against both, I would say that fits into Your Honor's
19 hypothetical scenario, based on Del Biaggio, where that
20 collapses into a single claim.

21 But if there's a completely separate claim against the
22 utility, that claim doesn't vanish once you superimpose it onto
23 the HoldCo's capital structure. That claim still exists as a
24 separate claim. You're just using the capital structure of
25 HoldCo to determine where it lands in the priority waterfall.

PG&E Corporation and Pacific Gas and Electric Company

1 THE COURT: Okay. Suppose the district judge or
2 somebody determines that the utility owes 1,000 dollars to PERA
3 for the claim against the utility and it's expressed as
4 dollars. What happens to that thousand-dollar claim under the
5 plan?

6 MR. BEHLMANN: Well, under the current form of the
7 plan, nothing would happen. Under the current form of the
8 plan --

9 THE COURT: It's treated as equity, isn't it?

10 MR. BEHLMANN: Well, it's not under the current form
11 of the plan. Under the current form of the plan, that claim
12 doesn't exist because the definition of HoldCo rescission or
13 damage claims includes only claims asserted against HoldCo.
14 There's no reference anywhere in the plan to what happens to
15 similar claims that are asserted against the utility.

16 THE COURT: So what does the law do? Okay, in my
17 hypothetical, you just got a thousand-dollar judgment against
18 the utility that must be treated under 510(b). Where do we put
19 it?

20 MR. BEHLMANN: That's a great question, Your Honor.

21 THE COURT: Mr. Behlmann, even if your literal reading
22 of the definitions is true, it's got to be somewhere, right?
23 So doesn't it -- isn't the only place it can be as an
24 additional equity participation in HoldCo?

25 MR. BEHLMANN: Well, that, Your Honor, actually goes

PG&E Corporation and Pacific Gas and Electric Company
1 to your exact suggested fix which is simply to modify the
2 definition of HoldCo rescission or damage claim to add to that
3 definition any claim against HoldCo or the utility subject to
4 subordination. If it's subject to subordination under Section
5 510(b) --

6 THE COURT: So I take it -- okay. So your proposed
7 1.108 would just add those three words, and so in (break in
8 audio) --

9 MR. BEHLMANN: I'm not able to hear you, Your Honor.
10 I apologize.

11 THE COURT: (Break in audio)

12 MR. BEHLMANN: I apologize, Your Honor. Your audio
13 and video are both frozen at the moment.

14 THE COURT: I (break in audio).

15 THE CLERK: Your Honor, I'm not -- you're cutting --
16 your sound is frozen; so is your video. I cannot hear you.

17 MR. BEHLMANN: Understood, Your Honor. Thank you, and
18 I'm sorry about the technical difficulties.

19 So Your Honor, we believe the fix is truly that
20 simple: just adding the reference to claims against the
21 utility to the definition of HoldCo rescission or damage
22 claims. That puts them all at the same level of priority,
23 subjects them all to the distribution formula, and that
24 determination that I mentioned earlier of whether a claim is
25 truly against HoldCo, truly against the utility, or if it's a

PG&E Corporation and Pacific Gas and Electric Company

1 claim against both, that's a determination that doesn't have to
2 be made today, and it doesn't have to be made for quite some
3 time until the time of allowance of one of these claims.

4 So that, I think, Your Honor, is probably the simplest
5 and most elegant fix for this concern. And all we're trying to
6 do through this fix is simply acknowledge what 510(b) says and
7 what 510(b) does. This is just a claim against one of the
8 debtors, the utility, arising from the purchase of a security
9 of an affiliate of that debtor. And we believe this fixes
10 that.

11 The next issue, Your Honor, and this is the --
12 certainly the largest from a volume of information perspective
13 of our issues today -- is the distribution formula. As Your
14 Honor's well aware, the plan provides for holders of Class 10A-
15 II claims that are allowed to receive new common stock in
16 reorganized PG&E. And the fundamental dispute between us and
17 the plan proponents is what value do you use, what metric do
18 you use to allocate those shares such that the recovery by
19 Class 10A-II is truly a pari passu pro rata recovery with Class
20 10A-I.

21 We agree with the plan proponents on at least one
22 thing, and that is that under Section 510(b) of the Bankruptcy
23 Code, Class 10A-II claims have the same priority as HoldCo
24 common stock. What we don't seem to agree on is what that
25 actually means in practice.

PG&E Corporation and Pacific Gas and Electric Company

1 The factor that makes implementing pari passu
2 treatment between Class 10A-I equity interests and Class 10A-II
3 claims is that the claims are denominated in dollars whereas
4 the interest are denominated in shares. There are situations
5 where that allocation is not so difficult. In a situation
6 where there's a pot of cash left over, for instance, to
7 distribute to equity, you simply take the value of that pot of
8 cash and use that as a proxy for the value of equity. Now
9 you've got equity stated in dollars and you undertake a simple
10 pro rata allocation between dollars and dollars.

11 The problem here is that existing equity interests are
12 simply being reinstated. I'll use "problem" lightly because
13 from a global perspective, it's a wonderful thing that PG&E is
14 coming out of bankruptcy a solvent company with publicly traded
15 stock that's actually trading today higher than it was on the
16 petition date.

17 So because existing equity interests are being
18 reinstated, there's one important result: if I own 1,000
19 shares of PG&E stock when I go to bed the night before the
20 effective date, I'm going to wake up on the effective date and
21 I still own 1,000 shares of PG&E stock. From that standpoint,
22 nothing has changed about my ownership. Obviously, I now own
23 1,000 shares of stock of a vastly different PG&E. There are
24 more equity holders; there will be more shares outstanding, but
25 that equity will also be worth more. Equity's going to have a

PG&E Corporation and Pacific Gas and Electric Company
1 smaller proportional piece of a much, much bigger pie. That,
2 Your Honor, is what makes the pro rata analysis a little more
3 complicated and a little more difficult.

4 So since 10A-II is getting shares of stock, you have
5 to work in one direction, which is you're starting with an
6 allowed damage claim amount, and you're converting it into a
7 number of shares. The formula that the debtors have proposed
8 in the plan -- the equity plan proponents have proposed in the
9 plan takes the claim amount, deducts insurance recoveries,
10 which is an issue we'll talk about on the back end of this
11 particular discussion, divides it by the market capitalization
12 as of October 12th, 2017 -- a completely different date; the
13 claim is valued as of the petition date. I believe the parties
14 are unanimous on that point. The value of the claim is --

15 THE COURT: I've got to stop you. I've got to stop
16 you.

17 MR. BEHLMANN: Yes, Your Honor.

18 THE COURT: It is true; claims are valued as of the
19 petition date. This is (break in audio) claim. In other
20 words, your numerator is the claim. Leaving aside insurance,
21 you're telling me that this formula gets you to the
22 distribution, but you've already got the claim allowed. How
23 did it get allowed? It got allowed in my hypothetical by -- I
24 told you, it's 1,000 dollars. In your hypothetical, it's some
25 other figure. You've got to get over that obstacle to tell me

PG&E Corporation and Pacific Gas and Electric Company

1 why we're going up to the petition date formula to find out
2 what the allowed claim is when we already figured out what the
3 allowed claim is in my hypothetical or in fact there'll be an
4 allowed claim somewhere else. And the beauty of my
5 hypothetical is investor B is still a shareholder, even though
6 he may have gotten defrauded; investor A is not a shareholder
7 and may've gotten defrauded. Do we treat them the same way?

8 MR. BEHLMANN: Well, Your Honor, that's an interesting
9 question. And there's actually, I think, two questions within
10 the question. There's the issue of the claim amount and
11 there's the issue of the treatment of the claim once you
12 arrived at a claim amount. And the way I understand your
13 hypothetical, it's really just an issue of damages
14 determination at the time of allowance, not an issue of
15 treatment because the only difference between A and B is
16 whether they have actually realized their damages. Investor
17 A --

18 THE COURT: No, that's not -- no, that's not true.
19 It's they both got defrauded on the same day. A bailed out and
20 got a thousand-dollar claim because of his damage; B rode
21 through as an equity holder, but he got the same damage because
22 he could've mitigated his damage by selling the stock the same
23 day A did, but he didn't. So how do you blame the wrongdoer
24 for the failure -- that's the wrong word -- for the fact that
25 the victim didn't mitigate his damage by selling the stock.

PG&E Corporation and Pacific Gas and Electric Company

1 The same damage might've been there under other
2 circumstances, but that's my point. You take your example up
3 to the petition date because you think that somehow the fraud
4 was the cog that led to this change in result. But it didn't.
5 The fraud is when it happened. And as Mr. Johnston argued, he
6 picked the date; you can take issue with the date, but you
7 didn't have ongoing fraud. The securities laws protects
8 defrauded people, not defrauded people that stay in as
9 investors.

10 MR. BEHLMANN: So a couple things, Your Honor. Number
11 one, as alleged in the third amended complaint in the
12 securities litigation and as we'll discuss in a little bit,
13 there were actually nine -- the October 12th drop in the stock
14 price, the equity plan proponents would have Your Honor believe
15 that once that occurred, that was it. Fraud was over, stock
16 price then reflect -- after that point reflected every fact
17 existing in the world, and the fraud was over.

18 In reality, Your Honor, there were nine successive
19 stock drops over the course of the class period. And in your
20 hypothetical, Your Honor, there were six more after investor A
21 fortuitously sold his shares. So there was, in fact -- there
22 are, in fact, allegations of an ongoing fraud.

23 THE COURT: But not all the way up to the petition
24 date. In other words, I'll change the hypothetical and give
25 you eight more frauds, if you like, and eight different dates.

PG&E Corporation and Pacific Gas and Electric Company

1 And one of my concerns is I don't know that October 12 is the
2 right either. But I don't now that the petition date is the
3 right answer because it can't possibly be because the stock was
4 dropping, dropping, dropping and that was not a measure of
5 fraud.

6 MR. BEHLMANN: And that, Your Honor, actually goes to
7 one of the proposed fixes that we will discuss towards the end
8 of the distribution formula discussion.

9 THE COURT: Okay.

10 MR. BEHLMANN: I think we have a couple of potential
11 solutions to the petition date question that may be palatable
12 to Your Honor. But one thing I will say about investor A and
13 investor B is that these really are two separate issues. The
14 determination of whether -- of what investor A's claim is and
15 what investor B's claim is is determined under the federal
16 securities laws. If the securities laws say, when you take the
17 facts and run them through the analysis, that investor A and
18 investor B have the exact same damages, then that is their
19 claim amount.

20 None of that impacts, though, what the relative
21 treatment of their claim should be. And that goes to the point
22 I believe Mr. Johnston made when Your Honor suggested on Monday
23 the four possible other alternative dates besides this
24 seemingly arbitrary October 12th date. The fourth suggestion
25 Your Honor made was the date of an individual investor's

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1 decision to purchase, so the dates that they bought stock. So
2 here it would be -- and I apologize; I'm looking to my notes
3 from your hypothetical this morning -- October 1, 2017. The
4 reason Mr. Johnston posited to Your Honor that that doesn't
5 work here is that there would then have to be a separate
6 calculation for -- a totally separate distribution formula,
7 effectively, for each and every member of class 10A-II.

8 THE COURT: Well, no. You know what, if there were no
9 510(b), there would have to be different determinations of the
10 damage of the client, and so that's nothing new. It's just --
11 the only -- it gets complicated because of 510(b) and the need
12 to turn dollars into stock, but if we have nine different
13 events of fraud, we have nine different claims that are a
14 measure of damages, too, so --

15 MR. BEHLMANN: Well, there's a little more to it than
16 that, though, Your Honor, because there were 896 trading days
17 during the class period. It was a little over a three-and-a-
18 half year class period. People bought stock on every single
19 one of those 896 trading days, and the formula would
20 effectively differ for everybody, but the prices on those days
21 are already calculated. They're already taken into account in
22 the allowed claim amount.

23 That determination is where the stock price, when they
24 bought and when they sold, and frankly, with respect to Mr. B,
25 if they sold, is already taken into account in the allowed

PG&E Corporation and Pacific Gas and Electric Company

1 claim amount. There are rubrics under the federal securities
2 laws for determining what the amount of someone's damages is,
3 and all the facts and circumstances of a given party's
4 purchases, sales and securities they still hold get run through
5 those formulas and yield an allowed claim amount at the end of
6 the day.

7 Once Your Honor reaches that claim amount, the factor
8 then is to turn that, as Your Honor noted, into a number of
9 shares. What the --

10 THE COURT: Okay, so Mr. Behlmann, suppose before
11 bankruptcy there were nine different lawsuits by nine different
12 investors, and nine different judgments for nine different
13 amounts, and then there's a bankruptcy. Would you trade all
14 nine damage amounts under the same formula, as a petition date
15 formula for distribution? Because we have nine different
16 allowed claims, and if it were a money case, if it were not a
17 510(b) case, those nine plaintiffs would have allowed claims.
18 They would presumably share pro rata based upon the amount of
19 their claims.

20 But the sharing is determined at the petition date.
21 The allowances occurred determined in fact, in each of the
22 judgments for the nine plaintiffs, or in my hypothetical two,
23 or in the real world here, maybe a thousand.

24 MR. BEHLMANN: Well, and the difference there, Your
25 Honor, I think, is that there are -- there would be nine

PG&E Corporation and Pacific Gas and Electric Company

1 different sets of facts and circumstances alleged. But if all
2 nine cases alleged essentially the same facts and
3 circumstances, the same course of fraud, and you just happened
4 to have nine different people filing lawsuits, then --

5 THE COURT: But why? If you have nine --

6 MR. BEHLMANN: -- presumably they would all get the
7 same treatment.

8 THE COURT: -- no, no. They would all get the same
9 treatment but they would all have different damage amounts.

10 MR. BEHLMANN: Absolutely, and same is true here.

11 THE COURT: Okay, so --

12 MR. BEHLMANN: The allowed claim amount in that top
13 left bracket is going to change for every Class 10A-II claim.

14 THE COURT: -- but that's my point that I made and the
15 reason why I did my simple hypothetical. I believe that you
16 are conflating when you determine the amount of the claim with
17 when you determine the treatment of the claim, and so in my
18 hypothetical, there are two times you measure the claim of the
19 damage.

20 In the example you gave of nine, there are nine times,
21 but by the time of the petition, you have nine liquidated
22 claims and they all are perhaps different amounts, but how
23 they're treated is the same. In other words, so what is the
24 right way to do the formula?

25 The -- Mr. Johnston has the most favorable formula

PG&E Corporation and Pacific Gas and Electric Company

1 because he has the highest -- he had a low numerator and the
2 highest denominator. That's a great way to get a small
3 fraction. You want to have a smaller denominator, which is a
4 great way to get a larger fraction.

5 But I don't know that necessarily either one is the
6 right one. And I know your cases don't seem to give us any
7 guidance. The capital -- the First Surger (phonetic) doesn't
8 tell us. Does any case tell us how to do it?

9 MR. BEHLMANN: Unfortunately, Your Honor, no. I
10 believe we -- one point, we do agree with the equity plan
11 proponents on is that we've not found any reported case that
12 deals with this issue directly because the circumstance where
13 you've got a debtor that's so solvent that equity is being
14 reinstated, and not only is it being reinstated, but it's being
15 reinstated and continuing to trade at a higher price than it
16 traded on the petition date. That doesn't happen too often,
17 Your Honor.

18 That's a -- it's a great problem to have from the
19 standpoint of the economic stakeholders of PG&E, but it's a
20 difficult problem to have from all of our standpoint, as we sit
21 here in the virtual courtroom, because this is somewhat
22 unprecedented. I think if it would be okay with Your Honor, I
23 think the solution here might be to go through a little bit
24 more of our presentation and get to some of our suggested
25 fixes.

PG&E Corporation and Pacific Gas and Electric Company

1 THE COURT: Okay.

2 MR. BEHLMANN: Because I think once we point out to
3 Your Honor what the fundamental problem is with this 35.9
4 billion-dollar number, which is our real issue here, what this
5 formula does in that when you divide by a market cap and
6 multiply by the number of shares outstanding, if you collapse
7 that formula, all you're really doing is dividing by the stock
8 price as of a particular date. There's a little bit of
9 rounding error because of the fully diluted number of shares
10 changes a little bit over the class period, but plus or minus a
11 relatively insignificant amount, you're just dividing by the
12 stock price.

13 So the stock -- the opening stock price on October
14 12th, the number that the equity plan proponents would have
15 Your Honor use, I believe, was \$69.29. What this formula does
16 when you collapse the petition date share count with the
17 October 12th market cap, this formula says every \$68.25 of net
18 damages on a Class 10A-II claim equals one share of new PG&E
19 common stock.

20 We think that that -- the choice of that date, that
21 October 12th date is problematic because it was essentially
22 arbitrary. As Your Honor noted, that is a date where the stock
23 price, as we mentioned in our brief as well, was near its class
24 period zenith. I think the highest the stock price ever went
25 intraday during the class period was about seventy-one dollars.

PG&E Corporation and Pacific Gas and Electric Company

1 And they're using a stock price of \$69.29.

2 THE MONITOR: Excuse me, excuse me, Mr. Behlmann. It
3 appears we've lost Judge Montali.

4 MR. BEHLMANN: Oh, no.

5 THE MONITOR: Yes, one moment while he tries to
6 rejoin. I'll stop the recording momentarily.

7 I'm sorry, counsel, Judge Montali is not able to
8 connect and he will take his lunch recess now and resume at
9 12:45. And he will try to reconnect in a different location at
10 that time. You can log out and then log back in at 12:45, or
11 you can mute your video and your audio, and then we'll just
12 patch everyone back in at that time.

13 MR. BEHLMANN: Thank you.

14 THE MONITOR: Thank you.

15 (Whereupon a recess was taken)

16 THE MONITOR: We're recording now, Your Honor.

17 THE COURT: All right. I'm sorry, gentlemen. I seem
18 to be in the habit of apologizing for my Internet service. I
19 can't blame anybody, so Mr. Karotkin, I hope we're not messing
20 up your Friday afternoon.

21 MR. KAROTKIN: Do I have to answer that question?

22 THE COURT: No, and Mr. Behlmann, I've lost track of
23 time. And the last thing we were talking about is, before my
24 problems went on, is you had described the many trading days
25 and the many events occurred, and there we were. So pick it up

PG&E Corporation and Pacific Gas and Electric Company

1 where you want to. I think I'm going to be able to make it
2 through the rest of the afternoon here.

3 MR. BEHLMANN: Okay, I certainly hope so, and I'm glad
4 you were able to get the issues worked out, Your Honor.

5 So just to quickly recap, the whole purpose of this
6 formula, as we all know, is to convert a claim that's in
7 dollars into a number of shares. The basis that was given by
8 the plan proponents for the choice of the October 12th date --
9 which we assert was an arbitrary date that they then reverse-
10 engineered an explanation for so that they could use a really
11 high stock price -- the fundamental basis that they've given
12 for that, though, is the supposed benefit of the bargain theory
13 that they're trying to give investors that bought during the
14 class period the benefit of the bargain.

15 Two things about that, Your Honor; number one, there
16 were 896 trading days during the class period. People bought
17 before October 12th. People bought on October 12. People
18 bought after October 12th of 2017. And as we'll talk about for
19 a brief moment in a little bit, there were six more -- pardon
20 me, eight more drops in the stock price after October 12th,
21 2017. None of that is accounted for in the selection of the
22 date or in the supposed benefit of the bargain theory.

23 Your Honor, in DCD Programs, Ltd. v. Leighton, 90 F.3d
24 1442, 9th Circuit 1996, the 9th Circuit said that the benefit
25 of the bargain measure of damages allows a plaintiff to recover

PG&E Corporation and Pacific Gas and Electric Company

1 the difference between what the plaintiff expected and what he
2 would receive had the defendant's representations been true,
3 and the amount the plaintiff actually received.

4 That's essentially the basis that we heard Mr.
5 Johnston say, and that we read in a little bit less detail in
6 the plan proponent's brief, Your Honor, as being given for this
7 choice of October 12th, that Judge, we're trying to give all
8 these folks the benefit of the bargain, what they bargained
9 for.

10 The 9th Circuit went on to say, quote, "However, this
11 Court has never held that such damages are permissible under
12 Rule 10b-5," period, end quote. This is simply a theory that
13 has no bearing on this case. It has no relevance. It has no
14 merit. It's not useful for calculating damages. It's not a
15 reasonable basis for the choice of October 12th. It's just a
16 basis that sounded good to sell Your Honor on that date.

17 In their demonstratives, and this is a -- the bottom
18 of the screen is a duplicate of the demonstrative that was used
19 by Mr. Johnston on Monday. They presented Your Honor with a
20 pie chart that showed the supposed true value of PG&E stock on
21 10-12-17 at the market open, and then the little slice of pie
22 that's pulled out is the amount the stock dropped between that
23 morning and the close of trading on the following day.

24 And they claim that that's it; that was the inflation.
25 Once that happened, fraud was over, stock price reflected the

PG&E Corporation and Pacific Gas and Electric Company

1 value, nothing more to see here, let's all move on. Here's the
2 problem with that, Your Honor. There were that loss (sic).
3 And again, this entire pie on all of these slides starts from
4 the 35.9 billion-dollar number as of 10-12-2017, and then goes
5 through and deducts out in little slices the stock drops on
6 each of the subsequent dates alleged in the securities
7 litigation.

8 There were nine of them, Your Honor. And as time went
9 on, they chipped away and chipped away and chipped away and
10 chipped away, and finally, you get to the end of the class
11 period, the final drop. And then you're left with using the
12 terminology of the plan proponents, the fair value, what they
13 call the real value of PG&E, of only seven billion dollars.
14 The rest of that 35.9 was chipped away. It wasn't just one
15 occurrence. It wasn't just one instance. It was an ongoing
16 series as the fraud unwound, to put that simply.

17 This line chart, Your Honor, reflects the same thing
18 as the preceding nine pie charts. It just puts it all on one
19 continuum. You start at October 12th, 2017. Stock dropped,
20 and it dropped again eight more times after that, bringing it
21 to the end of the class period. Stock is -- I don't know if my
22 pointer shows up through the Zoom system, but where the stock
23 ended up (indiscernible) class period.

24 So how do we fix the formula, Your Honor? We've
25 suggested pretty strongly that October 12th is a --

PG&E Corporation and Pacific Gas and Electric Company

1 THE COURT: (Indiscernible), Mr. Behlmann, just one
2 question. Go back to the prior chart, please. The -- I'm not
3 interpreting the chart the way I maybe should. What's the
4 price on the day of the ninth loss, November 15th, 2018?

5 MR. BEHLMANN: Your Honor, the closing price on the
6 day of the 9th loss was \$17.74. That is the end of the class
7 period. It opened in the morning at \$24.01 and closed in the
8 evening at \$17.74.

9 THE COURT: Okay, I'm getting a lot of feedback from
10 you now, I think, unless it's mine again.

11 Ms. Parada, do you hear Mr. Behlmann clearly or do you
12 pick up some static from him?

13 THE MONITOR: No, I'm hearing some noise, like the
14 microphone is hitting something.

15 THE COURT: Okay, but Mr. Behlmann, I can finally
16 blame somebody else. It's okay, but there is a lot of
17 feedback. Something might be brushing against your microphone
18 or something.

19 MR. BEHLMANN: Bear with me for one second, Your
20 Honor. I'm on these little air pods. I will switch back to --
21 okay. Can you hear me better now, Your Honor?

22 THE COURT: Yes, better.

23 MR. BEHLMANN: Okay. Wonderful. So the -- after the
24 ninth loss, after the 11/15/2018 loss, the closing stock price
25 at the end of that day was \$17.74, Your Honor.

PG&E Corporation and Pacific Gas and Electric Company

1 And if I may move ahead in the demonstratives a little
2 bit, that is one of the options that Your Honor suggested on
3 Monday, and we took that to heart. We made a series of
4 suggestions on this slide of how we believe Your Honor could
5 fix the formula. We've asserted in our papers why we believe
6 the petition date market capitalization, and thus the petition
7 date stock price is the right number to divide into the damage
8 number to get to a number of shares. We hear Your Honor. We
9 understand. We'll leave that as it is in our papers.

10 The other two options, I think, may be somewhat more
11 palatable to the Court. Option number 2 is the end of the
12 class period. It was one of the options Your Honor suggested
13 on Monday. That's an important date, Your Honor, because as of
14 that date, the fraud had all occurred, and the fraud had all
15 unwound. As of the end of the class period, everything that's
16 alleged in the third amended complaint had happened. All of
17 the fraud-related disclosures had occurred, and the stock price
18 had fallen as far as it was going to fall during the class
19 period.

20 We think that makes a lot of sense, Your Honor. We
21 recognize that between that date and the petition date, the
22 stock continued to fall, ultimately closing at about twelve
23 dollars the day before the petition date. Using the market
24 capitalization or the stock price at the end of the class
25 period ignores all of that. It just stops at the end of the

PG&E Corporation and Pacific Gas and Electric Company
class period and says the fraud is over; we're going to use
that stock price. And that's going to be the basis for the
fair and equitable allocation between class 10A-I and Class
10A-II.

The third option, Your Honor, is to come up with a
share price. All we're doing with this formula is dividing
damages by a share price to get to a number of shares. We're
perfectly willing, as we sit here today, Your Honor, to go to
mediation before Judge Newsome and try to reach agreement with
the plan proponents on what that share price should be, whether
it's based on a multiple of many, whether it's based on
something else, whether it's some stock price during the course
of the class period, frankly, Your Honor, whether it's some
other metric that Judge Newsome comes up with that none of us
had thought of as we sit here today. We think that's a fair
and equitable option.

What we submit is not a fair and equitable option and
is not a legally permissible approach to confirm the plan is to
use this formula as is. It's simply arbitrary. It is
engineered for no other purpose than to drive down the number
of shares that are available to Class 10A-II.

THE COURT: Let's go back to something we touched on
before the break: whether it's two investors, per my
hypothetical, or nine investors per the way you played it out
in the chart. All 9 of them or all 2 of them or all 4,000 of

PG&E Corporation and Pacific Gas and Electric Company

1 them need to have their claims determined somewhere along the
2 line because it doesn't matter what their claims are in a
3 formula if they don't have claims, and so it would strike me
4 that the people that bought stock after eight drops might be
5 less likely to prove their case than the person who bought
6 stock on the first -- before the first drop.

7 But what I'm really troubled by is why, if they're
8 nine start -- drops, why is it proper to ultimately have a
9 formula that treats my hypothetical Mr. A who bailed out five
10 days into the -- or whatever, a month after he bought with the
11 people that rode the stock all the way. They can end up with a
12 completely disparate amount of dollar damage per share, right?

13 MR. BEHLMANN: They could end up with greater damages
14 than someone that sold during the class period, but Your Honor,
15 whether those damages are allowable and how those damages are
16 calculated is purely a function of the federal securities laws,
17 and that's accounted for entirely in the calculation of
18 damages. If they had --

19 THE COURT: But it's something that has to come before
20 you plug in the formula. In fact, even the Fifth Circuit case,
21 the one that I read last night whose name escapes me --

22 MR. BEHLMANN: Superior Offshore?

23 THE COURT: Yeah, Superior. The court just said, oh,
24 we'll deal with that later. It's okay to leave it unresolved
25 because there was no formula, there was no methodology at all

PG&E Corporation and Pacific Gas and Electric Company

1 as there is proposed here.

2 What would happen if I did that? What if I said let's
3 wait and figure out what the dollar damage claims are, again,
4 leaving aside insurance and leaving aside the question of Del
5 Biaggio, just focusing on why do we have to know this formula
6 until we know what the claims are?

7 MR. BEHLMANN: Your Honor, that's an interesting
8 question. The numerator of the formula you're obviously not
9 going to know until we know what the claims are. The
10 denominator of the formula, I guess, if Your Honor is
11 suggesting that we come back before Your Honor at sometime in
12 the future and try to hammer out what an appropriate
13 denominator is, potentially, that's a second logical step after
14 mediation with Judge Newsome. Frankly, I think I'd be fairly
15 optimistic that if we mediated this issue with Judge Newsome,
16 we'd probably eventually reach agreement on a stock price, plug
17 it into the formula, and move along from this issue.

18 THE COURT: Well, look. If I thought that there was
19 some mediation tomorrow with Judge Newsome on this issue, I'd
20 say fine. But I'm not in touch with him and don't intend to
21 be. And it would seem to me that whether it's the debtor or
22 the shareholder proponents, doesn't matter what's on the other
23 side. You have somebody on your side. Somebody has to agree
24 to go do it. I'm not going to order anybody to do it right
25 now. But obviously, if they want to mediate it, they can

PG&E Corporation and Pacific Gas and Electric Company

1 mediate it.

2 And I agree. Mediation might solve the whole problem.
3 But I have to assume there won't be mediation, and therefore, I
4 have to come up with a formula. And after looking at your
5 chart, I've got nine different -- eleven different dates to
6 pick or none of the above. I mean, I've got petition date.
7 I've got nine different drop dates. I've got this artificial
8 October 12th date, and I suppose I've got 824 other dates, too,
9 from when all the people purchased. But that's not very
10 efficient. So I'm kind of figuring -- not sure what to do.

11 MR. BEHLMANN: Certainly, Your Honor. And if I may, I
12 think the simplest solution that we would suggest would be to
13 use the market capitalization and stock price as of the end of
14 the class period because by that point, all the fraud has
15 occurred. Everyone that was ever going to buy their shares
16 during the class period had bought their shares. All of the
17 facts and circumstances are taken into account.

18 Absent that, I think, reading between the lines, which
19 may be dangerous, I think your question is ultimately whether
20 this issue has to be determined prior to confirmation of the
21 plan, as a prerequisite to confirmation of the plan. We think
22 it could certainly be resolved if we were to go mediate, and we
23 have not spoken to the debtors and the other plan proponents
24 about whether they would be willing to. We think it certainly
25 could be resolved in advance of confirmation.

PG&E Corporation and Pacific Gas and Electric Company

1 If ultimately it cannot, if the choice is a truly
2 binary choice between using \$68.25 to one share or deferring
3 the issue for another day, I think in that instance, I think
4 deferring the issue for another day is, frankly, probably the
5 best option.

6 THE COURT: Well --

7 MR. BEHLMANN: We don't think you go there --

8 THE COURT: -- let me make a couple of statements
9 here. Judges all act differently. I don't discuss anything
10 with a mediator. But the one communication I had with Judge
11 Newsome about this issue was one sentence in an order that I
12 issued before the decision on the class motion -- class claim
13 motion and said that I'm adding to your list, Judge Newsome, is
14 meet and confer and see if you can negotiate or mediate with
15 the security claimants. Period, end of subject.

16 So I don't know whether -- and I don't want you to
17 tell me -- I don't know whether there's been ongoing mediation
18 or not. And certainly, if the plan proponents and/or debtors
19 on the one hand, and your side on the other want to do it, they
20 can do it. And that's just where I am.

21 And so the third suggestion is a great suggestion if
22 everyone agrees. The deferral, I suspect that Mr. Johnston and
23 I recall Mr. Bennett (phonetic) at a prior hearing would
24 probably tell me they have to pin this down because it's going
25 to affect when they go to the market. Well, the way to solve

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1 that problem, I supposed, is to do the way personal injury
2 lawyers negotiate. You negotiate a high-low bracket, and
3 therefore, you can bracket the maximum number of shares coming
4 out one way or the smallest number of shares coming out another
5 way. But that all presumes that there's liability determined.

6 Anyway, go ahead.

7 MR. BEHLMANN: Certainly.

8 THE COURT: I'm thinking allowed.

9 MR. BEHLMANN: And again, Your Honor, that's
10 absolutely right. The reality is that before any shares are
11 going to be issued, claims have to be allowed. And as Mr.
12 Johnson noted, and as I've probably said a few too many times
13 today, that's not going to happen for quite some time.

14 I think we've pretty much addressed our concerns with
15 the formula, Your Honor, as it regards the denominator issue.
16 The one other issue we have with the distribution formula is,
17 and we asserted this in our papers, and it was discussed in the
18 opening arguments from the other parties on Monday -- is the
19 insurance offset.

20 The plan calls for all insurance proceeds, or all
21 proceeds of all capital I Insurance policies, which are defined
22 in the plan as policies that were issued to the debtors or that
23 provide coverage to the debtors, specifically including D&O
24 policies. Any payments from those policies to a holder of a
25 Class 10A-II claim are essentially treated as a distribution on

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1 account of that Class 10A-II claim.

2 But as we know, the D&O policies provide coverage
3 first to the Ds and Os. They provide coverage under Side A.
4 They provide indemnification coverage under Side B for claims
5 against the Ds and Os.

6 And third, under Side C, the policies provide coverage
7 to the debtor. This offset applies irrespective of where that
8 coverage comes from, so if I -- your hypothetical investor A
9 has sued the debtor and has filed a complaint against the
10 debtor, and has sued a director and officer, and received 100
11 dollars from the insurance policy on account of the claim
12 against the director and officer. The plan treats that as a
13 payment on account of the claim against the debtor.

14 And Your Honor, we believe that Ivanhoe says that does
15 not work. The most -- probably the most glaring example is
16 under a Side A policy that provides no coverage to the debtors
17 whatsoever, no Side C coverage at all, nothing to the entity.
18 Even a payment under that policy would be treated by this
19 formula as a payment on account of a claim against the debtor.

20 THE COURT: I know, but suppose our investor A got a
21 judgment of 100 dollars against all defendants; all defendants,
22 or at least the debtor and one nondebtor defendant. Wouldn't
23 in fact the insurance be paid out of the columns or the towers
24 that cover the debtor?

25 MR. BEHLMANN: Two things, Your Honor. First,

PG&E Corporation and Pacific Gas and Electric Company

1 investor A is not going to get a judgment against the debtor
2 because the debtor is in bankruptcy and he has filed his proof
3 of claim against the debtor.

4 THE COURT: But that's the (indiscernible) --

5 MR. BEHLMANN: But B, in the hypothetical, let's just
6 (indiscernible) --

7 THE COURT: -- what if there was relief from stay to
8 do that?

9 MR. BEHLMANN: Okay, sure. Let's assume that A has
10 that judgment against both defendants. In that instance, I
11 guess a plausible case could be made that some portion of the
12 insurance proceeds were attributable to the debtors. How much
13 is a factor of the securities laws. That's dealt with in our
14 brief.

15 We discussed the manner in which that gets calculated,
16 and to the extent that payment was made on account of a claim
17 against the debtor, then we understand that v dot. What we
18 don't understand is to the extent that payment is on account of
19 the claim against the individual, deducting that as though it
20 was a payment on account of the claim against the debtor.

21 THE COURT: Are you familiar with my ruling a couple
22 weeks ago in the subrogation dispute in Ivanhoe v. the
23 California (indiscernible).

24 MR. BEHLMANN: Yes.

25 THE COURT: And you are aware of how that came out?

PG&E Corporation and Pacific Gas and Electric Company

1 MR. BEHLMANN: Yes, Your Honor. We're in a slightly
2 different boat, obviously.

3 THE COURT: Well, I know that, and I wasn't going to
4 ask you to tell me why the Ivanhoe choice versus the Geller
5 choice, which is what I went, and let the fire trustee offset
6 against the corporate claimants. Which rule would apply under
7 the securities laws, and why?

8 MR. BEHLMANN: We would --

9 THE COURT: Excuse me, with the debtor taking the
10 position that it is the beneficiary of both of the insurance
11 policies.

12 MR. BEHLMANN: -- well, Your Honor, I don't think
13 there's any dispute that the debtors are insured under the D&O
14 policies, other than the Side A. Side-A-only policies, there's
15 no dispute. Those don't provide coverage to the debtor at all.
16 But as to the policies that provide Side A and Side B and Side
17 C coverage, we would assert that the distinction is a little
18 more granular than just whether someone isn't insured. And
19 following Ivanhoe, we would take the position, and we have
20 taken the position, that if an insurer is paying the claim
21 against someone other than the debtor, that that doesn't count
22 as a payment by the debtor.

23 THE COURT: But again, we're back -- you're assuming
24 that the debtor -- I'm assuming the debtor has insurance, and
25 in Ivanhoe, that wasn't the case. The plaintiff in Ivanhoe, or

PG&E Corporation and Pacific Gas and Electric Company
1 that alignment of parties, has two defendants to look to, and
2 the principle there is don't let the defendant off the hook
3 until the point is made whole, which is not the same in the
4 subrogation context.

5 So this seems like it's more like the subrogation
6 (indiscernible) because of the presence of insurance.

7 MR. BEHLMANN: Well, the subrogation context would
8 require that we were drawing our own insurance. So if we had
9 an insurance policy that insured us against losses and PG&E
10 stock --

11 THE COURT: No, no. I didn't mean to say that you had
12 that kind of insurance. What I'm saying is the principle that
13 was operative, and that influenced my decision in that case, is
14 that the insurance part, the insurer and the fire victim have a
15 contractual relationship, and the fire victim is not a
16 wrongdoer.

17 In the Ivanhoe situation, and I think in this
18 situation, under the allegations, the debtor and the officers
19 are wrongdoers, and so if you do a pure Ivanhoe analysis, maybe
20 you're right, but what's different is the source of payment,
21 for the most part, is the debtor's own insurance.

22 So, okay, the -- go ahead. That's what I'm struggling
23 with, and that's what I think Mr. Johnston made in point of
24 this brief, at least.

25 MR. BEHLMANN: Understood, Your Honor, and I think

PG&E Corporation and Pacific Gas and Electric Company

1 that's a call that we're just going to have to leave to Your
2 Honor's discretion.

3 We've presented our point, and we will -- but I think
4 that the one distinction that absolutely unequivocally has to
5 be made, even if Your Honor determines that the debtors are
6 right and that a payment from a shared policy is in fact
7 deductible from the claim against the debtor, any payment from
8 a Side A policy, we believe, needs to be off limits because
9 those policies do not provide any coverage to the debtor
10 whatsoever.

11 There's no set of circumstances under which the debtor
12 isn't insured under the Side A policies. We believe that
13 that -- that the rules, the Ivanhoe rules, should extend to any
14 payments from the insurance on behalf of the individual Ds and
15 Os, but we can't really say much more than that. That's our --

16 THE COURT: But if a plaintiff in Purro's (phonetic)
17 position actually went to trial in a class action, I guess that
18 actually happens now and then, if it actually went to trial and
19 got a judgment, it wouldn't care who paid it.

20 And in this case, unless your claims are
21 astronomical -- I realize you allege they are -- this seems
22 like a nonissue because if you make a judgment, if you get a
23 judgment, excuse me, the debtor is probably going to be able to
24 satisfy the judgment. They certainly have said so in their
25 testimony, in terms of contingencies and their expectations of

PG&E Corporation and Pacific Gas and Electric Company

1 that, so again, I'm wondering if this is really a nonissue at
2 the end of the day. But anyways, let's go ahead and get to
3 your other points.

4 MR. BEHLMANN: Certainly, Your Honor, and this is
5 actually the final point of our confirmation objection. At the
6 conclusion of this point, as my partner Mr. Etkin mentioned at
7 the beginning, he'd like to make a brief wrap-up closing to
8 sort of tie all of this together and put it all into context.

9 So the final issue, Your Honor, is obviously Class
10 10A-II rejected the plan. In our view, the plan unfairly
11 discriminates against Class 10A-II. Very briefly, with respect
12 to rejection, Your Honor, the debtors and the equity plan
13 proponents both tried to paint a slightly different picture of
14 what rejection means in this context. They suggested that the
15 class accepted by number but rejected by dollar amounts.

16 Mr. Karotkin opined on whether one large creditor may
17 have swayed that number. There's no evidence in the record
18 with respect to which specific creditors voted, so I don't
19 think that statement should really get any credence. But
20 either way, it doesn't matter.

21 Under 11 (26) (c), the class voted to reject the plan,
22 therefore the cramdown requirements of 11(29) (b) are invoked.
23 And the debtors have the burden of satisfying the cramdown
24 rules. They have to show that the plan is fair and equitable.
25 It has to satisfy the absolute priority rule.

PG&E Corporation and Pacific Gas and Electric Company

1 That's fairly easy here because Class 10A-II is pari
2 passu with common equity. There is no junior class to us. We
3 acknowledge that. But the plan also cannot unfairly
4 discriminate against Class 10A-II. That's where we think this
5 plan in its current form, without the few tweaks we've
6 mentioned, and then one more, falls apart.

7 Holders of existing common equity interests are
8 getting two things under the plan. Number one, they're
9 retaining their interests. Their interests are subject to
10 dilution by new equity issued under the plan, but it is worth
11 mentioning that that equity that they hold is now going to have
12 significantly less debt sitting in front of them in the form of
13 fire victim claims.

14 All the fire victim claims are removed from the
15 capital structure and funneled into the fire victim trust,
16 which is probably a significant part of why the stock is
17 trading today actually higher than it was on the petition date.

18 So these folks are going to basically come out of
19 bankruptcy with -- they're unequivocally going to come out of
20 bankruptcy with the same shares they started with, in the same
21 number. They will face, for instance, dilution in terms of
22 voting, but economically they're still going to hold the same
23 number of shares, and as of right now, those shares are
24 essentially in the same boat they were in at the petition date.

25 Second, existing equity holders are also receiving, or

PG&E Corporation and Pacific Gas and Electric Company
1 are probably receiving -- we've heard testimony that it's still
2 a little bit in flux -- subscription rights to buy additional
3 stock and reorganize PG&E through the rights offering. As we
4 know from Mr. Ziman's declaration and his testimony, those
5 rights are expected to trade on the NYSE, and thus they are a
6 valuable consideration.

7 They are an element of value being provided to
8 existing equity holders. They received them. They may choose
9 not to exercise them, but they unequivocally have value. Mr.
10 Ziman's testimony, we believe, supports that. And there's
11 ample case law that supports that.

12 Just a couple of quick examples; Washington Mutual,
13 442 B.R. 314, Bankruptcy District of Delaware, 2011, the Court
14 rejected a planned proponent's argument that a rights offering
15 had no value, nothing that even if the eligible offerees had
16 the right to subscribe to their stock at par, the right to buy
17 into the company has an inherent option value that includes the
18 upside if the company is successful. The Court in that case
19 did not put a numerical value on the rights offering but did
20 say that the particular claimant that was excluded had to be
21 permitted to participate.

22 One other example, Breitburn Energy Partners LP, 582
23 B.R. 321, Bankruptcy SDNY, 2018; the Court overruled an
24 objection by a pro se party who essentially argued that
25 eligibility to participate in a rights offering did not provide

PG&E Corporation and Pacific Gas and Electric Company

1 him with equal value to others in his class because of the fact
2 that he was unwilling or unable to participate.

3 In rejecting that argument and overruling that
4 objection, the Court implicitly held that the rights offering
5 had value. Getting the rights has value. These are something
6 that existing equity holders are getting as a kicker on top of
7 their existing stock, and that (indiscernible) --

8 THE COURT: Did either of those cases involve Class
9 (10) (b)?

10 MR. BEHLMANN: I do not believe so, Your Honor, no.

11 THE COURT: Well, then that's probably a significant
12 difference, isn't it?

13 MR. BEHLMANN: No, I don't think that's a difference
14 at all because --

15 THE COURT: Well, it's an artificial yet congressional
16 manner of turning in money, judgment or a potential money and
17 equity. It's sort of once you're an equity holder, you're
18 always an equity holder. But that's hardly the same as
19 excluding somebody who might otherwise think you have the right
20 to sustain your rights.

21 MR. BEHLMANN: One critical distinction, Your Honor,
22 is that 5(10)(b) does not necessarily turn money into equity or
23 vice-versa; 5(10)(b) simply says that claims arising from the
24 purchase of common stock have the same priority as common
25 stock. So just --

PG&E Corporation and Pacific Gas and Electric Company

1 THE COURT: No, that's --

2 MR. BEHLMANN: -- (indiscernible) where there was a
3 bucket of cash to distribute to existing equity holders, you
4 wouldn't be turning claims into equity at all. You'd be going
5 in the other direction. But I think the distinction doesn't
6 necessarily matter in the context of unfair discrimination
7 because the -- reduced to its simplest terms, you've got two
8 classes of statutorily identical priority, and they're getting
9 disproportionate recoveries on their claims and interests.

10 THE COURT: -- well, are they getting it on account of
11 their claim and interest, or are they getting it because of
12 some other situation? In other words, is the -- is it a plan
13 issue or is it something that just parallels the plan and goes
14 through with the fact that you're a shareholder but not because
15 it's a treatment of your interest?

16 MR. BEHLMANN: Well, it is structured as a piece of
17 the treatment of their interest, Your Honor, and therefore we
18 believe it's subject to the cramdown provisions. They're
19 getting these rights by virtue of their role as stockholders.
20 There's nothing special that they have to do to qualify to
21 receive the subscription rights. Importantly -- pardon me one
22 second -- okay.

23 All the Court has before Your Honor are conclusory
24 assertions that the plan does not unfairly discriminate Class
25 10A-II, not just with respect to the rights offering, but with

PG&E Corporation and Pacific Gas and Electric Company

1 respect to all of the pieces that we've talked about; the
2 formula, the denominator and the formula, the insurance offset
3 in the formula, and the rights offering. The conclusory
4 assertions that the debtors have made in their confirmation
5 brief that the plan does not unfairly discriminate are not
6 enough to satisfy the debtor's burden.

7 With respect to the rights offering, Your Honor, we're
8 not asking to participate in the rights offering necessarily.
9 Mr. Johnston gave a lengthy dissertation on Monday about the
10 fact that the plan proponents don't want creditors like PERA to
11 buy stock and reorganize companies because we, quote, sued the
12 debtors for fraud. One minor flaw in that is they supposedly
13 don't want us to buy stock, yet their proposed treatment of our
14 claims is to give us stock. But that's not necessarily what
15 we're asking, Your Honor.

16 All we're asking is simply that in addition to
17 correcting the two issues that we see with the formula, the
18 denominator and the insurance offset, that there be some value
19 provided to Class 10A-II that tops up the proportionate value
20 they're receiving to be on par with Class 10(a)(1), to have a
21 true pari passu pro rata recovery with Class 10(a)(1).

22 THE COURT: Oh, in other words, and I'm going back to
23 my original hypothetical. If investor A has a thousand-dollar
24 claim, you want him or her to get whatever a thousand-dollar
25 claim is worth in equity and rights, and since maybe he doesn't

PG&E Corporation and Pacific Gas and Electric Company
1 want the rights, maybe he needs to just get a little more
2 equity. Were you saying that's the true (indiscernible)?

3 MR. BEHLMANN: From a -- the standpoint of parity,
4 from the standpoint of pari passu treatment, all I'm saying is
5 that whatever the holder of that claim is getting as a
6 proportion of the value of their claim should be equivalent to
7 the proportion equity is getting of the value of its equity.

8 THE COURT: I'll put it a different way. Suppose you
9 are a securities claimant and I am a shareholder, and I have --
10 and under the -- what if we had this magic formula, your dollar
11 claim is worth a hundred shares, and I have a hundred shares,
12 but I'm going to get fifty more shares under the rights
13 offering. You want -- you don't want the rights. You just
14 want some increase in the number of shares you have to
15 compensate you to match my hundred shares, plus the rights.

16 MR. BEHLMANN: That, Your Honor, would be one form of
17 currency. Just to be crystal clear, though, we're not asking
18 for the fifty shares that you're getting in that scenario.
19 We're asking for value in some form, some form of currency,
20 whether it's stock, whether it's cash, whatever, that is
21 equivalent to the value of the right that you're getting to buy
22 those fifty shares, which as we know, those rights are going to
23 trade on the NYSE. They're going to have a determinable value.

24 THE COURT: But there's simply not -- and this is
25 again first impression. Nobody known to report a case, if

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1 you're aware of, is even up to this kind of problem, right?

2 MR. BEHLMANN: No reported case that I'm aware of has
3 dealt with this issue in the specific context we're in right
4 now. That is correct.

5 THE COURT: Where's that media there when I need them?
6 Okay.

7 MR. BEHLMANN: We agree, Your Honor. With that, I
8 believe I'm going to turn it over to Mr. Etkin for the closing
9 and summation of everything we've talked about.

10 THE COURT: Okay, but Mr. Behlmann, before you leave,
11 you get the award for the courteous lawyer who was frustrated
12 by the Judge who keeps losing his Internet connection. So
13 thank you.

14 MR. BEHLMANN: I appreciate that, Your Honor.

15 THE COURT: Thank you for your patience. And we're
16 going to -- well, you want to -- we'll take you out of the --
17 no, we'll leave you in the participation room in case there's a
18 follow-up question.

19 Mr. Etkin, I thought you were going to do the leg work
20 today, but your partner did the work.

21 MR. ETKIN: I'm sorry, Your Honor?

22 THE COURT: I said I thought you were going to do the
23 heavy lifting today, but your partner did it all, so you're --

24 MR. ETKIN: My partner did the heavy lifting, and it
25 was particularly heavy today that he managed to get through the

PG&E Corporation and Pacific Gas and Electric Company

1 technological issues of no fault of anyone, so I admire him for
2 that as well, as well as the heavy lifting that he did with
3 respect to the argument. And I appreciate the Court's patience
4 with respect to that as well. So Your Honor, I just wanted to
5 wrap up with a few words, very short, maybe about five minutes.

6 Your Honor, since the outset of these cases, the
7 debtors have and continue to alter and manipulate the optics
8 with respect to the significance and merits of the rescission
9 or damage claims in this case. We obviously have our own view,
10 and it's a very different view than the debtors on the merits,
11 but that's an issue for another day.

12 The debtors have actually at times shown disdain for
13 investors, who have collectively lost billions of dollars in
14 connection with their purchases of securities of the debtors.
15 While the debtor's efforts to resolve disputes regarding the
16 plan with selective constituencies have taken place, no effort
17 has been made by the debtors to engage with us. All we have
18 gotten is essentially the back of their hand.

19 Our goal, Your Honor, has never been to scuttle
20 confirmation of the plan. And we've been involved in this case
21 in the beginning, kicking and screaming with respect to the 105
22 injunction motion, but we've been involved in this case from
23 the onset.

24 We understand its importance in the larger picture,
25 but we are part of a meaningful constituency in this case, and

PG&E Corporation and Pacific Gas and Electric Company

1 actually, the Court has recognized the rights of that
2 constituency by extending the bar date and allowing injured
3 investors to file proofs of claim based upon the debtor's due
4 process violations in failing to notify these investors of the
5 original bar date.

6 Thousands, Your Honor, if not tens of thousands of
7 those investors spoke up and filed claims. And those who are
8 entitled to, able to, and chose to, voted to reject the Plan as
9 a class. Your Honor, this isn't horseshoes. It doesn't matter
10 how close you get, one way or the other. Many thousands --

11 THE COURT: (Indiscernible). It's not like a national
12 election, right, you can't win the popular vote and win the
13 election.

14 MR. ETKIN: Pretty much the same thing, Your Honor,
15 but I don't want to go there. I should point out, however,
16 that we could easily point to the obvious timing and notice
17 problems that we've raised previously to Your Honor as the
18 reasons that thousands actually didn't vote, but that's not the
19 issue.

20 Our objections to the plan are specific, and they're
21 tailored, and importantly, they are for the most part fixable.
22 And Mr. Behlmann has identified very well how those issues can
23 be fixed.

24 And just as you've suggested in the past, Your Honor,
25 and the debtors have offered to do with others, most of these

PG&E Corporation and Pacific Gas and Electric Company
1 issues can be resolved through language in the confirmation
2 order, focused changes in the plan, further discussion, or
3 perhaps, as was suggested, mediation with the help of Judge
4 Newsome, who seems to have had a good track record in that
5 regard. But none of that has happened to date, and here we
6 are.

7 Yes, Your Honor, we represent PERA and the other
8 institutional claimants identified in our objection, but as
9 we've pointed out in several of our pleadings, and as Mr.
10 Behlmann alluded to a little earlier, despite the absence of a
11 certified class, PERA has been appointed lead plaintiff by the
12 District Court, and Labaton, Mr. Dubbs' firm, has been
13 appointed lead counsel by the same Court.

14 Rule 23 and the relevant case law imposed fiduciary
15 duties to the putative class, which would include those who
16 filed rescission or damage claims in this case. Lead
17 plaintiffs and -- lead plaintiff and lead counsel are very
18 cognizant of those fiduciary obligations.

19 So we are here not only on behalf of our individual
20 clients, who themselves lost millions of dollars in pension
21 fund value, but to fulfill those fiduciary obligations to our
22 broader constituency. We stand ready to engage with the plan
23 proponents to attempt to resolve these issues in good faith,
24 but if those efforts prove unsuccessful or none of that does
25 take place, this Court can and ultimately make the call.

PG&E Corporation and Pacific Gas and Electric Company

1 To recap, Your Honor, with respect to the scope of the
2 plan injunction, I don't even know why that's an issue. It's
3 such an easy fix. We just want to make sure that the intent of
4 that provision is not to take a back door and attain what the
5 Ninth Circuit precludes, which is a release of our claims
6 against nondebtor defendants. Simple language in the
7 confirmation order can deal with that.

8 As to the formula to convert allowed Class 10(2)(a)
9 claims in cash to shares that reorganized PG&E, including the
10 extent of any appropriate insurance offset, we've provided
11 several alternatives. Mr. Behlmann focused on the price at the
12 end of the class period, which takes into account all of the
13 drops in stock that are alleged in the complaint. And it also
14 takes into account all of the purchasers of securities during
15 the class period that could have a claim. In our view, it's an
16 elegant solution and an appropriate one.

17 THE COURT: But your colleague didn't necessarily
18 cancel then quit. What about you? Isn't it a windfall for the
19 early people to get the method of moral value just because of
20 the -- if the denominator gets smaller, the fraction gets
21 bigger.

22 MR. ETKIN: Yeah, it's not a windfall, Your Honor,
23 because if someone hypothetically has a lower claim, their
24 claim amount, that's going to be taken into account in the
25 formula, and they will get less shares based upon the fact that

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1 they have a smaller claim. So --

2 THE COURT: But that's because you're basing upon your
3 familiarity and Mr. Behlmann's familiarity with the securities
4 law formulations to figure out the damage claim, right?

5 MR. ETKIN: Well, that's correct, and that's --

6 THE COURT: Okay.

7 MR. ETKIN: -- and Your Honor, you were focusing on
8 that, and rightly so, because you can't determine how many
9 shares anyone's going to get under any formula until they have
10 an allowed claim, either by virtue of settlement or by virtue
11 of having a court of competent jurisdiction make that
12 determination.

13 THE COURT: No, but I think you and Mr. Behlmann have
14 done a slight pivot in the sense that your brief stressed
15 petition date because, quote, that's when you figure out an
16 allowance of claims, but that's not the point. You've pivoted
17 a little bit from the petition date back to the last day of the
18 class. I realize there was not a lot of time between them, but
19 conceptually, it's a different approach. Isn't it?

20 MR. ETKIN: It's a different approach, Your Honor, and
21 I plead guilty to having pivoted, but we like to think that we
22 hear the words that are being directed at us, and we'd like to
23 think that we give that some thought and react to it.

24 And we heard, Your Honor, when Your Honor said
25 earlier -- well, first of all, we heard Your Honor's suggestion

PG&E Corporation and Pacific Gas and Electric Company

1 as to that as a possibility in connection with the debtor's
2 opening. We heard Your Honor earlier today when you indicated
3 that the October 12th date is at the apex and the petition date
4 is maybe at its lowest or close to its lowest, so you both
5 maybe have ulterior motives in choosing those dates for
6 purposes of the formula.

7 And as courts have a tendency to do, and as this Court
8 has had admirably a tendency to do, is you try to think about
9 Solomon and how Solomon would have handled it.

10 THE COURT: And I'm, Mr. Etkin, and I'm pussycat
11 compared to my colleague Judge Newsome. If I turn you loose on
12 him, you're going to have hands full. I'm easy.

13 MR. ETKIN: Well, that's okay, Your Honor. That's
14 what -- maybe that's what we need, but in any event, yes, we
15 pivoted because on reflection, after hearing that suggestion
16 and Your Honor's comments, that date just makes sense in terms
17 of what's trying to be -- what should be, what people should be
18 trying to accomplish, which is to select a date that
19 encompasses all of the stock drops and encompasses all of the
20 purchases during the class period. So we believe that, and we
21 are not afraid to say so.

22 The bottom line, Your Honor, is that regardless of
23 where this lands, we believe that the plan proponent's formula
24 as discussed by Mr. Behlmann just doesn't work. It's designed
25 for one thing and one thing only.

PG&E Corporation and Pacific Gas and Electric Company

1 It's curious, Your Honor, that the -- and I know this
2 was addressed by the plan proponents, but in the March version
3 of the plan, there was even a different date, a date that would
4 have created perhaps a little bit more in the way of stock
5 under the plan proponent's formula. But lo and behold, that
6 date disappeared, and the October 12th date was inserted for
7 the latest iteration of the plan.

8 As to the rights offering, Your Honor, and the
9 discriminatory impact as Mr. Behlmann described, the fact is
10 that we don't know at this point, and that's another -- that's
11 not a pivot; that's just the fact. We don't know at this point
12 whether a rights offering will happen or not, but if it does,
13 cases are clear that there's value attached to that; 5(10)(b)
14 is clear that 5(10)(b) claimants, or rescission or damage
15 claimants must be treated pari passu. So the idea of getting
16 additional value to a class that should be treated pari passu
17 with rescission or damage claims just is offensive to the
18 requirements for cramdown.

19 THE COURT: And you're -- I think you're just about
20 (indiscernible).

21 MR. ETKIN: And I'm just about done, Your Honor. I'm
22 not going to go over the issue of the claims against the
23 utility that was discussed by Mr. Behlmann, a lively discussion
24 between you and him. But again, Your Honor, the issues are
25 discrete. And they're bona fide issues, with respect to the

PG&E Corporation and Pacific Gas and Electric Company

1 plan, that impact our claims and the claims of the thousands of
2 others in Class 10A-II.

3 Those issues can and should be fixed. The plan
4 proponents would prefer to try to delegitimize these issues or
5 invent the conversion formula that, as we've indicated, was
6 engineered to minimize Class 10A-II recoveries with no real
7 legal or factual basis. You have not seen any evidence
8 whatsoever, Your Honor, in terms of trying to indicate how
9 their formula results in pari passu treatment with the holders
10 of stock. And as Your Honor has said several times, although
11 we've been trying to be helpful in terms of coming up with
12 fixes, it's not necessarily our burden to do so. This is the
13 debtor's plan, and to the extent there are problems with it, we
14 feel that we've identified those problems.

15 We're asking the Court to at the very least recognize
16 and do something to resolve those issues.

17 THE COURT: Okay, (indiscernible).

18 MR. ETKIN: So with that, Your Honor --

19 THE COURT: Thank you for your presentation. I want
20 to --

21 MR. ETKIN: -- thank you. We appreciate you.

22 THE COURT: -- okay, have a nice weekend. I'm going
23 to move you both out of the panel now and find out --

24 MR. BEHLMANN: Thank you, Your Honor.

25 THE COURT: -- thank you, have a good weekend.

PG&E Corporation and Pacific Gas and Electric Company

1 MR. ETKIN: Well, Your Honor, before you do, just one
2 housekeeping matter.

3 THE COURT: Yes.

4 MR. ETKIN: We submitted our list of exhibits. The
5 debtor objected to all of them; some on relevancy grounds, some
6 on the basis that they came in after we had the chance to see
7 the confirmation brief and the declarations. We'll leave that
8 to you. That's part of your determination, Your Honor.

9 THE COURT: Well, yeah, I put it in a prior order
10 rather than just dealing with the evidentiary objections to
11 exhibits and testimony and whatever as part of the ruling.
12 Okay, it --

13 MR. ETKIN: And that's fine, but I didn't want to let
14 that slip by.

15 THE COURT: Okay.

16 MR. ETKIN: I think you also mentioned that you wanted
17 to at least hear something about it, so that we leave in your
18 more-than-capable hands.

19 THE COURT: Okay, thank you.

20 MR. ETKIN: Thank you again, Your Honor.

21 THE COURT: All right, I'm going to excuse you and Mr.
22 Donaldson and Mr. Behlmann.

23 Mr. Karotkin, I apologize to you also for my end of
24 the mix-up today. Hopefully, the delay let you get some more
25 things solved.

PG&E Corporation and Pacific Gas and Electric Company

1 MR. KAROTKIN: No need to apologize, sir. I think we
2 did get a couple of things resolved. Unfortunately, we have
3 not been able to resolve what we have been discussing with the
4 unsecured creditor's committee, not yet. But I think going to
5 some of the other issues Mr. Pascuzzi and Mr. Gorton and Mr.
6 Glassman have raised, I think -- and I know they will correct
7 me if I'm wrong -- that Section 10.13 has been resolved with
8 the proposed revisions we have made, with one additional
9 revision. I believe Section 11.1 has been resolved, which is
10 extension of jurisdiction. We resolved it without your
11 participation.

12 So I think that --

13 THE COURT: Wasn't it 8.3, 3(e) -- or I got the wrong
14 number, but 8.2(e).

15 MR. KAROTKIN: No, it was the 8.2; 8.2(e) is still not
16 resolved, and I believe Mr. Gorton mentioned something about
17 10.9(f) was not resolved. We believe that the proposed manner
18 in which we would resolve -- I'm sorry, which we would revise
19 8.2(e), that we have sent to them, which they rejected, should
20 be approved by Your Honor, and that 10.9(f) we believe is
21 appropriate as written. So we can discuss those later, if
22 you'd like, because I don't think those will be resolved.

23 And I think with that, that addresses their objections
24 other than to the extent they may have executory contract
25 issues. But I believe that addresses their objections.

PG&E Corporation and Pacific Gas and Electric Company

1 THE COURT: Okay, and switching gears slightly, and
2 maybe they want to be heard, maybe not, but what's your
3 pleasure now, given the interruptions we had and the delays,
4 about the rest of today and closing final argument? I presume
5 you and Mr. Johnston want to. What's your pleasure?

6 MR. KAROTKIN: Well, Your Honor, I think that Mr.
7 Julian had reserved some (indiscernible) --

8 THE COURT: (Indiscernible), yes, I'm sorry.

9 MR. KAROTKIN: -- (indiscernible), so I think it would
10 be appropriate for him to go forward first. I think that with
11 respect to the issues we're discussing with the UCC,
12 unfortunately we don't think they will be resolved today, and
13 we may have to carry that until Monday and have more
14 discussions over the weekend on those issues. We hate to do
15 that, but we just think that we're going -- we're not from our
16 perspective, at least, we're not going to be in a position to
17 finalize that today.

18 But Mr. Johnston can speak for himself. I believe
19 that he may have some response to Mr. Etkin and Mr. Behlmann.
20 And then I would like to, of course, address some of the
21 comments by the objectors that were made in the last couple of
22 days in response to some of those arguments, relatively
23 briefly, and then make a brief closing statement at the end of
24 the proceedings.

25 THE COURT: Well, do you want to do that this

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1 afternoon, or do you want to pencil in Monday? I don't
2 particularly like the idea of a weekend session, but if
3 necessary, we'll do it. But if there's -- and again, well,
4 I'll tell you want. You were going to try to give me a better
5 sense about the timetable that you expect me to follow.

6 So let's skip for the moment open issues, a 2-to-9
7 Johnston response to this afternoon. If the matter were
8 submitted at this moment, 2 o'clock, 10 to 2 in San Francisco
9 on June 5th, what would be my homework assignment from you,
10 assuming I'm going to confirm the plan, that must be met best -
11 - absolute has to be met?

12 MR. KAROTKIN: Your Honor, I think that for the
13 purposes of the equity and debt raises, and in view of the
14 markets and the fact that July, most of July, is a blackout
15 period of the debtors because, I believe, of earnings
16 statements -- and I could be wrong about the reason, but it is
17 a blackout period -- that the intention would be to do the
18 equity raise in June, and therefore, if you are inclined --

19 THE COURT: Wait, equity raise when?

20 MR. KAROTKIN: In June, immediately starting upon
21 entry of your order.

22 THE COURT: Oh, okay.

23 MR. KAROTKIN: In June. The intention is to raise all
24 the capital as quickly as possible so we can go effective as
25 quickly as possible. That's the current plan, is to do it as

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1 quickly as possible. And I said that (indiscernible) --

2 THE COURT: Okay, is that the -- we've got the June 30
3 deadline for maybe 1054.

4 MR. KAROTKIN: Okay, and I'd like to address that
5 because I think that there's some confusion about what needs to
6 be done by June 30th. And I think for purposes of compliance
7 with AB 1054, you would have to enter the confirmation order on
8 or before June 30th. It does not mean, Your Honor -- and I
9 think that the governor's office essentially has confirmed this
10 with the contingency -- I forgot the exact name of it -- the
11 contingency process that was approved by Your Honor.

12 THE COURT: The contingency, yeah, the contingency
13 plan, yes.

14 MR. KAROTKIN: Which provides that the effective date
15 can occur -- the effective date can occur after June 30th, as
16 long as the confirmation order is entered on or before June
17 30th.

18 THE COURT: Entered doesn't -- it doesn't have to
19 become final -- be final by then.

20 MR. KAROTKIN: It doesn't have to become final, but we
21 would ask, Your Honor, that upon entry of the order -- and we
22 did request this in our memorandum, is that you would waive
23 compliance with rule -- Bankruptcy Rule 3020(e), which provides
24 for the stay -- the 14-day stay.

25 THE COURT: Yeah.

PG&E Corporation and Pacific Gas and Electric Company

1 MR. KAROTKIN: And that can be waived under the rule.
2 The rule provides that that can be waived.

3 THE COURT: So I know that. I know that, but my point
4 is, again --

5 MR. KAROTKIN: Now, I'm going to give you a date, if
6 you're looking for a date.

7 THE COURT: No. You're making it clear that, in terms
8 of following the commitment that I've made, I have to sign an
9 order by close of business on June 30th. Now, obviously, I'm
10 much more inclined to do it much earlier, but I can't just do
11 it tomorrow --

12 MR. KAROTKIN: No.

13 THE COURT: -- I have to think about this.

14 MR. KAROTKIN: But I'd --

15 THE COURT: Okay.

16 MR. KAROTKIN: -- like to address that further in
17 terms of the --

18 THE COURT: Yeah.

19 MR. KAROTKIN: -- of the financing -- the equity
20 raised and the debt raised. I'm being told by the capital
21 markets folks and the people raising this money is that it
22 would be very important to that exercise and that endeavor, in
23 order to get this plan effective as soon as possible, taking
24 into account what I indicated about the July blackout, that if
25 you are going to enter an order confirming the plan, that it be

PG&E Corporation and Pacific Gas and Electric Company

1 entered, preferably, by the end of next week. If you could --

2 THE COURT: Well, that's the -- you mean a week from
3 today?

4 MR. KAROTKIN: Yes, a week from today. And I think it
5 could slip a day or two after that, but -- and again, I don't
6 like to put this kind of pressure on you, but that is what I'm
7 being told by the capital markets folks.

8 THE COURT: Well, Mr. Karotkin, you're the guy that's
9 given me a 50-page order. I'm a proponent of one-sentence
10 orders. But I may make a choice or a decision later to, you
11 know, issue some sort of a memorandum to explain myself later.
12 I can do that. From what you're telling me is the people that
13 are going to be putting out the money want a signature on the
14 line from the presiding judge, and the sooner the better, but
15 they don't care if I spend twenty pages after that explaining
16 myself, right?

17 MR. KAROTKIN: Well, I think that's correct, although
18 I do think there are some provisions in the order which address
19 the financing that may be important to the financing raise, as
20 well. So --

21 THE COURT: No, I'm being semi-facetious that I may
22 not sign the exact order you prepare, but I'm not going to do a
23 one-liner. I understand the importance of this. But my point
24 is let's take -- let's take the argument that you just heard,
25 you personally weren't involved in it. I'm sure you're aware

PG&E Corporation and Pacific Gas and Electric Company

1 of it, but obviously it's Mr. Johnston's -- you know, his ball.
2 The whole discussion of the conversion and the offsets and all
3 those other things, those are, what, two or three first
4 impression issues, and I owe it to the parties and appellate
5 court and anyone to explain myself, but I can explain myself
6 after I've issued an order that says my decision is A, B, C.
7 And --

8 MR. KAROTKIN: Certainly, on that point, Your Honor.

9 THE COURT: Yeah.

10 MR. KAROTKIN: Certainly, on that point, yes.

11 THE COURT: There are a few others in there. There
12 are -- you know, you've been very helpful in keeping track of
13 the objections, but there are still some objections.

14 MR. KAROTKIN: Yes.

15 THE COURT: There -- and I'm not talking about the
16 things that we heard from Mr. Bray and Mr. Gorton, I'm talking
17 about things, for example, that we heard earlier about does
18 the -- show the three -- you know, the three kind of fire
19 victim claims -- government, subro, and real fire victims --
20 shouldn't they be treated one class? I mean, obviously if I
21 accept that argument, the plan is probably dead. But if I
22 reject that argument, I owe it to the litigants to explain my
23 reasoning, but I don't have to explain it in detail in an
24 order, because if I sign an order that says objection's
25 overruled, plan confirmed, I'm doing the judicial act without

PG&E Corporation and Pacific Gas and Electric Company

1 elaborating, which is my preference, but I think I know the
2 point.

3 MR. KAROTKIN: Okay.

4 THE COURT: So whether I can do it by the 12th or not,
5 that remains to be seen. Okay. Did you want to elaborate more
6 on that whole question?

7 MR. KAROTKIN: Not at the moment, sir. I think -- no,
8 nothing more on that particular point.

9 THE COURT: And I want to make sure I'm clear, too.
10 The blackout that you described is not a PSP, it's --

11 MR. KAROTKIN: Right.

12 THE COURT: -- a securities law matter that the
13 company, in connection with its own quarterly reporting --

14 MR. KAROTKIN: Yes.

15 THE COURT: -- then when it's --

16 MR. KAROTKIN: Its earnings -- the earnings, there's
17 a -- but I'm told --

18 THE COURT: Well, I mean --

19 MR. KAROTKIN: I'm probably not the best person to
20 explain this, but --

21 THE COURT: No, I'm not either, but it's a function of
22 when you're going to market --

23 MR. KAROTKIN: Yes.

24 THE COURT: -- to equity and you're out there,
25 things -- so the securities laws require, and the people that

PG&E Corporation and Pacific Gas and Electric Company

1 know that area of the law say there's this real -- it's a
2 security's lawyer's blackout.

3 MR. KAROTKIN: Yes, sir.

4 THE COURT: Okay. Okay. Okay. What is your pleasure
5 in terms of timing if we -- if you're suggesting that maybe
6 there should be a further hearing on Monday from the OCC or
7 others, and certainly, Mr. Julian needs to have a chance to be
8 heard, and Mr. Johnston, but I want to -- I want you to take
9 the lead here and tell me what is the most efficient way to
10 proceed today, and if necessary, over the weekend, and
11 certainly on Monday?

12 MR. KAROTKIN: I think that we ought to try to get as
13 much done as we can today, and I think that if Mr. Julian
14 should be ready to go forward with his argument today, he
15 should do so, and whatever else we can accomplish today with
16 leaving the issue with the UCC for Monday probably makes the
17 most sense, and then I'm prepared to address the objections
18 today, also, if need be, and make a short closing statement on
19 Monday after everything else is concluded.

20 THE COURT: Mr. Julian, if you're in the audience, can
21 you raise your hand, and I see -- oh, yeah. Okay.

22 Ms. Parada, would you bring Mr. Johnston and Mr.
23 Julian in to the participant's panel. I see Teresa MacDonald
24 (phonetic). I'm not going to call on her at the moment. I'll
25 come back to that later.

PG&E Corporation and Pacific Gas and Electric Company

1 MS. PARADA: Mr. Julian, please state your appearance
2 for the record.

3 MR. JULIAN: Good afternoon, Your Honor. Robert
4 Julian of Baker and Hostetler, appearing on behalf of the Tort
5 Committee.

6 THE COURT: Good afternoon, Mr. Julian.
7 Mr. Johnston, state your appearance.

8 MR. JOHNSTON: Good afternoon, Your Honor. Jim
9 Johnston on behalf of the shareholder proponents.

10 THE COURT: Okay. Let's go in reverse order.
11 Mr. Johnston, what's your pleasure in terms of timing?

12 MR. JOHNSTON: I just wanted to say, Your Honor, that
13 I do have a fair bit to say in response to Mr. Behlmann and Mr.
14 Etkin's arguments. I'm prepared to do that at your
15 convenience, whether that's --

16 THE COURT: Okay.

17 MR. JOHNSTON: -- you know, late this afternoon, over
18 the weekend, or Monday morning.

19 THE COURT: How much time do you need?

20 MR. JOHNSTON: I think probably thirty to forty-five
21 minutes.

22 THE COURT: Okay. Mr. Julian, what's your pleasure?

23 MR. JULIAN: I have an hour, Your Honor, to address,
24 essentially, seven important issues raised by some of the
25 objectors, as well as the TCC, and we've been going for a long

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1 time, and I have a PowerPoint presentation to present, so my
2 only question is, you know, do you want Mr. Johnston to go
3 first? Do you want me to start on Monday fresh for you? I'm
4 at your availability here.

5 MR. JOHNSTON: And, Your Honor, if I may be heard on
6 that? I do think it makes sense to have all of the objecting
7 or commenting comments come out before the debtors close, and I
8 view my argument as part of the debtors' close.

9 MR. JULIAN: That's fine.

10 THE COURT: Yeah, that's fine with me.

11 Mr. Julian, I'm the one that's caused some of the
12 problems today because of my faulty internet. I'm prepared to
13 give you your hour right now if you want and --

14 MR. JULIAN: Sure.

15 THE COURT: -- then take a short break and have Mr.
16 Johnston and Mr. Karotkin conclude for the day.

17 I mean, Mr. Karotkin, can you -- if Mr. Johnston
18 estimates an hour, can you, say, do you share in another half
19 an hour so between you, an hour? Is that too much? Or too
20 little? Or enough?

21 MR. KAROTKIN: I think that probably would be
22 sufficient. I might run over a little bit, but I think that
23 would be sufficient.

24 THE COURT: Okay. Okay. All right. Let us try that.
25 I'm going to let Mr. Julian go forward. And, let me just --

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1 hold on one second, Mr. Julian.

2 Yeah, Ms. Attard is with you, right, Mr. Julian? So
3 she -- okay.

4 MR. JULIAN: Yes, Your Honor, Ms. Attard is going to
5 control the PowerPoint, yes.

6 THE COURT: Yeah, bring her into the room, please.

7 Ms. MacDonald, I'm not going to call on you for the
8 time being, so don't even think about it.

9 All right. Ms. Attard --

10 MR. JOHNSTON: Your Honor, Jim Johnston here. May I
11 drop off the panel while Mr. Julian is going?

12 THE COURT: Yes. Sure.

13 MR. JOHNSTON: Thank you.

14 THE COURT: So -- all right. Ms. Attard, would you
15 state your name on the record?

16 MS. ATTARD: Good afternoon, Your Honor. My name is
17 Lauren Attard. I'm from Baker Hostetler, and we represent the
18 TCC.

19 THE COURT: Thank you. All right.

20 Mr. Karotkin, do you want to stay on the screen, or do
21 you want to go in hiding?

22 MR. KAROTKIN: No, I'm okay. Thank you.

23 THE COURT: Okay. You're on, Mr. Julian and Ms.
24 Attard.

25 MR. JULIAN: May it please the Court, again, Robert

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1 Julian of Baker Hostetler, appearing on behalf of the Official
2 Committee of Tort Claimants.

3 Thank you, Your Honor, for the time today. I'd like
4 to start off by informing you and the parties that the TCC
5 supports the debtors' plan so long as it provides equal
6 registration rights to all new shareholders who are entitled to
7 those rights, and complies with the tort claimants RSA
8 settlement, which Your Honor approved, and which has been
9 supported by eighty percent of the voting victims.

10 THE COURT: You don't take a position on the
11 securities plaintiffs and their entitlement or claim under the
12 rights agreement, do you?

13 MR. JULIAN: We do have one presentation for you on
14 that, which essentially tracks section 510(b) of the code, Your
15 Honor.

16 THE COURT: Okay.

17 MR. JULIAN: But we're not there yet.

18 THE COURT: Okay.

19 MR. JULIAN: Before I get into registration rights,
20 Ms. Attard, if you'd take that off so I could address
21 everything else.

22 Your Honor, I want to -- on behalf of the TCC and the
23 70,000-plus victims that the TCC represents, we want to thank
24 you for keeping the fire victims interest at the forefront of
25 this Court's case administration, both in terms of your

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1 pronouncements from the bench as to the tone of this case, and
2 also for your significant rulings which have advanced this
3 case, many of which were subject to your discretion and you
4 didn't have to do.

5 And because, Your Honor, there have been some
6 objections raised to the wisdom of your rulings and the RSA,
7 which forms the basis of the plan, I think it's very important
8 to go through what I believe are seven of your important
9 rulings, which will allow the construct and place in context
10 some of the arguments that I'm going to make today about the
11 registration rights and the stock.

12 Your Honor, before the hearing last summer on relief
13 from stay on Tubbs, the -- I never received and offered to
14 settle this case for greater than 3.5 to four billion dollars.
15 And Your Honor made three rulings which advanced the case and
16 forced the debtors, in our view, to come up with their
17 September plan, which proposed around eight billion dollars for
18 the victims.

19 The first, you granted relief from stay for Tubbs,
20 which was -- which produced a lot of evidence, including the
21 video of the PG&E fire -- PG&E pole exploding minutes before
22 the fire started -- the Tubbs fire.

23 Second, you did not grant the debtors' estimation
24 motion wherein they asked Your Honor to order dozens of mini
25 trials of cause for causation on each of the multiple fires

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involved in this case.

And third, you ordered withdrawal of the reference, which ended up putting the estimate on case in front of Judge Donato who did two things that were important for us and established the basis for the RSA.

First, Judge Donato rejected the debtors request to have these mini trials. And second, Judge Donato adopted our proposal that the best benchmark for settle -- for estimation was the debtors' settlement history, both in terms of the Butte 2015 fire, as well as the San Bruno conflagration, which also resulted in wrongful death and personal injury claims, as well as property damage.

With that background in mind, we filed a motion to terminate exclusivity to join with the debtors because, after all, eight billion dollars was nowhere close to where we thought the value should be. And it's very important to note that the bondholder plan with whom we joined provided several things that the debtors were not providing to us. And again, this is very important to show why the current RSA structure and the current plan is fair to the victims.

First, the dollar amount of the settled wildfire victims' claims was increased to 13.5 billion dollars.

Second, the debtors matched the bondholder plan in providing an assignment of claims and causes of action against third-party contractors and the like who were a significant

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1 factor in causing the fires and causing the debtors to incur
2 this 13.5-billion-dollar liability.

3 Third, the plan -- the bondholder plan, and eventually
4 this plan provided an assignment of rights, contract rights,
5 and policy rights that the debtors enjoyed. And it's very
6 important to note there, Your Honor, that many of these
7 third-party contractors indemnified PG&E for the 13.5 billion
8 dollars that PG&E is liable for on the plan, and so that
9 contract right for indemnification has been assigned to the
10 victim trust, too, as well as PG&E's (break in audio) rights
11 under insurance policies that cover those third-party
12 contractors. So we have a large bundle of rights that's not
13 limited to just the 13.5 billion dollars in stock and cash.

14 And that was a close call. I remember you saying to
15 Ms. Dumas, I won't give you what you want on exclusivity unless
16 you give me what you want on mediation. And it was a tense
17 exchange, but an important one, and you gave us what you want.
18 And I must tell you, Your Honor, I sat in those mediations with
19 Judge Newsome, and the thirteen fire -- outside fire
20 professionals, whom you've known or heard from in this case,
21 and that was a turning point in this case. It really was. As
22 well as the exposure of the Tubbs evidence to the bondholders,
23 to the shareholder plan proponents, and the debtors, which
24 showed, in my opinion, that the Tubbs liability was a -- was
25 not a close call at all.

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1 In fact, I was going to spend two hours on estimation
2 in front of Judge Donato if that had gone to trial. The
3 evidence was so clear in my view. All these things helped to
4 drive the values up to the 13.5, plus the assignment of claims.

5 And then something very important happened in the
6 subro settlement. You said two things which were important to
7 us, and which actually framed some of my arguments today about
8 registration rights. First one I objected to, the fact that if
9 the subro settlement resulted in an all cash payment to subro,
10 that would mean, and I predicted this, Your Honor, at the time
11 in September and October, that there would not be enough cash
12 left in the case and we would end up being probably forced to
13 taking fifty percent cash and fifty percent stock.

14 And Your Honor asked us the rhetorical question in one
15 of those hearings, isn't that stock the indubitable equivalent
16 of cash? The indubitable equivalent, Your Honor, is going to
17 come up in this oral argument today several times because
18 although I know you are borrowing a bankruptcy term of art from
19 cash collateral disputes; I understood your point. I also
20 understood your point that, look, eleven billion dollars sounds
21 like a good settlement to me, Mr. Julian. I'm inclined to
22 approve it. You didn't do it. You held back.

23 And you held back until you then appointed -- here's
24 order number six that you made that I think was very important,
25 you appointed Judge Newsome to be the mediator to bring the

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1 debtors and equity into our court to see if something could be
2 forced. There was no 13.5 on the table from the debtors at
3 that time to us until you brought in Judge Newsome, who, as you
4 can imagine -- I can't say what happened, but I think his
5 reputation stands firm that he probably bashed some heads
6 together to help bring apart -- together what we have wrought
7 here. And by the way, he is attending today's Zoom conference,
8 I believe. You can bring him in if you want.

9 THE COURT: I won't bring him in. I wouldn't think of
10 that.

11 MR. JULIAN: Your Honor, that was order number six.
12 And what that did is that set up order number seven, which was
13 your approval of the RSA. And the approval of the RSA was very
14 important. And so what I'd like to do now, after giving the
15 background, I'd like to identify the seven questions that I'm
16 going to answer today.

17 And the first one is what are the benefits of the RSA
18 settlement that caused the victims to vote for the settlement
19 so overwhelmingly?

20 The second is going to be why is the plan feasible?
21 Some of our minority groups or victims have raised feasibility.

22 The third is why is the PG&E stock an attractive
23 investment, provided we get the registration rights agreement
24 that's equal to all other shareholders?

25 The fourth is -- this is very important, Your Honor.

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1 This will establish a lot of my argument today. Why must the
2 confirmation order confirm the TCC's right to approve a
3 registration rights agreement as guaranteed by the RSA
4 settlement that you approved, and why must those registration
5 rights be equal to those granted to all other shareholders,
6 which I will address today, is the most fundamental protection
7 of the victims that the Court can address in the seven days of
8 confirmation hearings.

9 The fifth question is going to be what's the impact of
10 estimation?

11 The sixth, I'm going to respond, like Mr. Karotkin
12 will be to some individual objections to the plan.

13 And the seventh is, Your Honor, how can the TCC assist
14 the Court and the parties on the voting issues raised recently
15 in the motion for an examiner? I'm going to have a very
16 constructive approach for you to consider if Your Honor wants
17 to adopt it involving the fact that the TCC has conducted its
18 own investigation and can file its report for Your Honor if
19 Your Honor so chooses.

20 Your Honor, let me go back to the major question,
21 which Mr. Abrams and many victims who don't like this plan have
22 raised. What are the benefits of the RSA settlement that
23 caused the victims to vote for the settlement so
24 overwhelmingly, eighty-eight percent?

25 First of all, the dollar amount alone of the cash and

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1 stock consideration was considerably more than the last
2 September offer of 8 billion dollars. There's now 13.5 billion
3 dollars of cash and stock. The third is, the claims that were
4 assigned to us are significant. They are against all tree
5 trimmers, consultants who advised on risk management, PSPS, the
6 actual tower that failed -- there's documentary evidence that
7 one of the consultants actually was on the email that said that
8 the tower on that line (break in audio) high risk of failure.

9 These claims are very important to us, Your Honor.
10 And they are so important that they helped resolve a large
11 dispute in this case already. Let me explain that to you. And
12 it's important for the victims who take shots at the RSA to
13 know this.

14 You may recall, Your Honor, that 6 billion dollars
15 plus of federal and state government claims were thrown into
16 the victim pot, and we and the outside lawyers -- the thirteen
17 outside lawyers who signed the RSA with the TCC -- drew a line
18 in the sand on no payments coming out of the 13.5-billion-
19 dollar corpus to those federal government claims. And with the
20 help of Judge Newsome, as you know, the result out of the
21 mediation on those government claims was that those federal
22 agency claims are going to be resolved by receiving a portion
23 of some of the third-party contractor claims that are assigned
24 to the victim trust. So already, they've been important. And
25 of course, that was a domino effect in the mediation that

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1 resulted in all of the government claims being wiped out in
2 sharing from the 13.5-billion-dollar corpus.

3 The second is we have the rights in insurance
4 policies, which as I've mentioned, some of these consultants
5 have a vast amount of insurance coverage themselves. And if
6 they have indemnified PG&E for the 13.5 billion dollars, as
7 some of them have, you can see that we almost have a double
8 payment there, adding to the 13.5.

9 Which raises a good point, I might say
10 parenthetically, getting ahead of myself, as to why some of
11 these so-called indemnity claims of the tree trimmer contracts
12 cannot recover against PG&E. PG&E has already paid,
13 essentially, twice to the victims. They've paid the 13.5, and
14 they're paying their indemnification rights for the 13.5
15 against the tree trimmers and the consultants. It's a large
16 pool of assets that's coming into the victim trust that needs
17 to get liquidated.

18 The other item that we received in this order is --
19 I'm going to show you in my PowerPoint in a moment -- is that
20 the RSA terms sheet guarantees to the TCC and the outside
21 thirteen consenting professional law firms consent rights to
22 two things: the form and content of the confirmation order and
23 the debt and equity financing documents, which include the
24 registration rights.

25 This is an important right that we bargained for. It

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1 mirrors what the backstop parties did, as we're going to show
2 you, in their financing letter. They also have acceptance
3 rights, that they have to accept their backstop financing
4 registration rights agreement, too. So everyone's been treated
5 equally here in writing, but it's going to be very important
6 for us to request Your Honor to put that in your confirmation
7 order, as I'll show you in a moment in our PowerPoint.

8 And its important -- the registration rights that was
9 guaranteed to us in the amendment number 1 to the RSA's
10 settlement is going to do away with the SEC rule which would
11 lock up the Fire Victim Trust for anywhere from five to six
12 years in liquidating its stock.

13 You can imagine how important this was to us when we
14 negotiated the RSA to put that into the RSA document, that we
15 have the right to accept this document because, Your Honor,
16 let's be honest about this. Is locking us up for five to six
17 years and liquidating our stock the indubitable equivalent of
18 paying 11 billion bucks to the subro shareholders? I mean,
19 come on. That's the fight I had -- the argument I had with you
20 in September, and we're going to -- we're going to ask now if
21 we have indubitable equivalent rights in this confirmation
22 order with respect to registration rights.

23 The other thing we obtained in the RSA was a right to
24 terminate this plan unless the plan goes into effect by August
25 29. We're very glad to hear Mr. Karotkin's words today that --

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1 and I know we worked very closely with him lately. They are
2 working very hard to get this IPO out, this public offering out
3 in the -- started in June. And so I believe this August 29
4 date is not going to be an issue.

5 And last, but not least, the RSA provided something
6 very important to the group of thirteen plaintiffs' lawyers,
7 who represent approximately seventy percent of the filed claims
8 in this case, which is that it provides the victim trust with
9 an oversight committee comprised of many of these lawyers to
10 represent the large bulk of victims in this case, with
11 oversight over the trusteeing and the claims administration
12 process. In short, the victims themselves in this case, Your
13 Honor, have control and oversight over their own destiny in
14 Fire Victim Trustadministration. That is something that did
15 not exist in the September 2019 plan offered by the debtors,
16 which was filed with the Court.

17 So this is why this RSA settlement was so important.
18 Frankly, I think what those group of thirteen lawyers did and
19 the Baker team who negotiated that, I think this settlement is
20 brilliant. I really do, and I think that these protections are
21 very important to enforce here in this plan and in the
22 confirmation order.

23 The second question I'd like to address, Your Honor,
24 is in response to many of the fire victims who have questioned
25 feasibility. Well, heck. You know, I've questioned

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1 feasibility, too. As you remember, back on April 7, when I
2 asked for supplemental disclosure on many of these issues, as
3 you know, we were being careful. We wanted to make sure that
4 those supplemental disclosures went out to the people.

5 I might even add that one of the lawyers in this case,
6 Mikal Watts, who represents over 16,000 fire victims, took the
7 transcript of that hearing wherein I disclosed all these many
8 things that we wanted to make sure the victims knew about and
9 actually sent it out to all his victims. And there were town
10 halls that discussed the issues. I have no doubt that there
11 was adequate information to all of the victims in that regard.

12 But one of the issues that has come up repeatedly
13 since then is plan feasibility, both as to wildfire risk and as
14 to financing risk. And I'd like to address this. I know Mr.
15 Karotkin's going to do it. He addressed it somewhat in his
16 opening. We stand firm with the debtors in this regard.

17 Look at what this debtor has accomplished during this
18 Chapter 11 case with respect to wildfire risk. First of all,
19 they have a vastly improved wildfire mitigation plan, enhanced
20 monitoring, enhanced tree trimming, and enhanced hardening.

21 I know this of my own personal knowledge, with my
22 house at 1,000 feet above the town of Sonoma. I can't tell
23 you, but I think four different occasions, I've seen the PG&E
24 guys come by and handle the pole across the street from me,
25 changing out transformers. After the PSPS events of last year,

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1 the helicopters with their LIDAR function have come by, run the
2 whole tower behind me. We have PG&E folks walking the lines
3 after every PSPS before they re-hook it up. And I can say that
4 I'm very proud of PG&E's attempt to improve what has been a bad
5 program before the Chapter 11 plan.

6 Secondly, we have Judge Alsup in there for another
7 year and a half. He is -- as you know, he has said another
8 fire's not going to happen on his watch. He is doing
9 everything possible to bring PG&E in probation to make sure
10 that they are continually improving their monitoring. We had a
11 recent issue with another C-hook issue up in the
12 Caribou-Palermo line. Our expert spotted the issue, we brought
13 it to Judge Alsup's attention. PG&E has responded favorably to
14 that, and there are more hearings coming. I am convinced Judge
15 Alsup is a huge improvement and oversight for wildfire risk.

16 Also, we have a monitor in Judge Alsup's jurisdiction
17 who is overseeing PG&E on a daily basis with their counsel.
18 And two other very important protections for the victims and
19 PG&E and its ratepayers, Your Honor, and employees, one is
20 PSPS. I mentioned that briefly.

21 Look, this is obvious to me. You've got directors and
22 officers who know that their insurance is nowhere close to
23 protecting them if there's -- if they fail on another PSPS
24 event. We have a very conservative PSPS program by PG&E. Mr.
25 Orsini's documentation in the recent PSPS class-action

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1 litigation showed that when those PSPS decisions were made last
2 year, representatives of governors and PUCs were in the room,
3 making the decision. The State of California, the Governor's
4 Office, the PUC -- PG&E's highest officials are all over this
5 issue, and I have no doubt that they are going to be very
6 conservative in so-called pulling the plug in a PSPS in order
7 to avoid wildfires next year.

8 And last but not least, we have the 21-billion-dollar
9 wildfire fund which, as you know, as has been mentioned so many
10 times, cannot benefit PG&E unless we have this plan confirmed
11 by June 30. And as proof of all this, as you heard by equity
12 plaintiff's counsel just a moment ago, the markets have reacted
13 favorably. The markets went down right after the Tubbs ruling.
14 The markets went down -- PG&E stock went down after the
15 termination of exclusivity. And now, with all this news of the
16 backstop parties' financing commitment coming into place, Mr.
17 Ziman's and other -- Mr. Wells' testimony that all the
18 financing is in place, and with this very good wildfire
19 mitigation plan in place, plus the PUC's approval, plus the
20 governor's approval, we see the market reacting favorably to
21 the stock.

22 And so we think that there's very little wildfire
23 risk -- not very little, but greatly improved risk management
24 for wildfire risk. Financial risk. I just mentioned that
25 they're fully committed. They are now not reliant on the

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1 speculative PUC approval of securitization because they've got
2 that 6-billion-dollar bridge line in case securitization
3 doesn't happen. And because of this, the governor finally came
4 on board, and so did the PUC. So we have a good feasibility in
5 this case to answer the questions posed by Mr. Abrams and the
6 like.

7 The third question that I'd like to address is why is
8 the PG&E stock an attractive investment, especially for us,
9 should we get equal rights -- registration rights like all the
10 other shareholders are getting, which is a fundamental
11 requirement of a good faith standard in confirmation, state law
12 requirements, and feasibility?

13 First of all, Your Honor, we have a strong, safe,
14 recapitalized company. As I mentioned, we have the strength of
15 the wildfire safety, wildfire mitigation, the wildfire fund,
16 PSPS, and we've got a completely recapitalized company with the
17 PUC's support. It's an excellent investment choice, from our
18 view.

19 And last but not least -- this is very important --
20 think about it. This utility -- I have to be careful with the
21 words I use -- but it has, in layman's terms, a virtual
22 monopoly on the biggest energy market in the fifth-largest
23 economy in the world, at least the fifth-largest economy before
24 the coronavirus hit. I'm not sure where we rate right now.
25 But it has been reported in many financial magazines that

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California's the fifth-largest economy.

And let's face it, PG&E has a greater chunk of that energy market, which is guaranteed revenue stream. It's a guaranteed revenue stream for the future. All investors -- pension funds, mutual funds, long-term investors -- we believe are going to want to invest in this company.

The alternative to not confirming the plan, I might add, looking at the stock value, is, you know, fire risk liability, which primes the victims with years of delay. And so I think that the alternative would be very bad for the stock value, certainly.

The fourth question I want to answer is -- I'll go right to my PowerPoint, Your Honor. Your Honor, do you want to take a break, or are we fine to --

THE COURT: No.

MR. JULIAN: -- keep going?

THE COURT: No, I'm fine.

MR. JULIAN: All right. Well, I'd like to bring up a PowerPoint. We will file this with the Court. And I'd like to give you some background on the registration rights. First, I'd like to summarize it, but then I'd like next to go to about three things: the textual basis for our argument in the RSA, the basis for my saying the backstop parties have registration rights agreements, too, in their financing letter -- the only evidence in the case that shows that the rights have to be

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1 equal -- that's Brent Williams' declaration -- and then I'll
2 sum up with some argument and propose a form of order for you
3 on this, which we believe is very important to do what you've
4 done in your first seven orders that benefitted the victims.

5 This is going to be our request number 8th in this
6 case to help the victims, and we hope you'll look kindly on it,
7 just as you did in the first seven times.

8 Your Honor, the victims, we believe, cannot be treated
9 equally with the other claimants being paid in cash unless the
10 Fire Victim Trust can liquidate stock within a reasonable time.
11 This is because the Fire Victim Trust cannot liquidate their
12 stock without a registration rights agreement. That's because,
13 as I'm going to explain in a moment, under the SEC rules,
14 there's a lockup period which requires staged selling of
15 certain amounts over various quarters, which, if you add it all
16 up, amounts to about five to six years, arguably.

17 Third, the equity backstop parties' financing letters
18 state that they must have a registration rights agreement, too.
19 You may recall that Mr. Ziman did not recall that, but we're
20 going to show you in this PowerPoint excerpts from the
21 financing letters actually on file in the bankruptcy court
22 docket that show that they backstop parties have registration
23 rights agreements, too, and they get to consent to, just like
24 us. And so our point is going to be, you know, fairness is
25 fairness, but sauce for the goose should be sauce for the

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1 gander here.

2 THE COURT: Let me interrupt you and ask this. This
3 overview, this -- is this -- this is not a verbatim from the
4 RSA, but these points are reflected in the RSA?

5 MR. JULIAN: We're coming to that, Your Honor. Yes,
6 I'm going to have quotes for you in the next -- succeeding
7 slides.

8 THE COURT: Okay.

9 MR. JULIAN: Yeah, the RSA settlement states that
10 these equity documents must be reasonable and the TCC must
11 consent to them.

12 Fifth, the TCC, as you know, has not consented to
13 date. And so we're going to propose that the Court's order
14 should confirm that the plan will not become effective unless
15 the TCC consents to --

16 THE COURT: Well, I think Mr. Karotkin said yesterday
17 that he agreed without one that a plan would not become
18 effective. So do you agree with that?

19 MR. JULIAN: Yes. And I think because -- I'm going to
20 come to this in a moment, but I believe it's a feasibility
21 issue. And so that's why I think your order has to show two
22 things. And I'll show you in the order -- in a moment. The
23 two things are that the victims' stock must be treated equally
24 with the backstop parties' stock when it comes to registration
25 rights, and our consent rights under the RSA must be preserved.

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1 I think that's a confirmation issue. It's a confirmation issue
2 to preserve those points, but it can be done later.

3 And the reason for this is point 7. The victims' RSA
4 settlement would be violated otherwise, and the victims'
5 recovery will be placed at risk. And after all, this case is
6 all about the victims, supposedly. So now it's time for
7 everyone to put, so to speak, their money and their promises
8 where they have been in the past. So if we could go to the
9 next slide, I'd like to give you -- start giving you the
10 textual background on this.

11 The disclosure statement in this case states that the
12 fire victims' trust is considered an affiliate. If it's
13 considered an affiliate because of its large holdings in excess
14 of twenty-one percent, its stock is deemed restricted. And
15 besides, there's no dispute in this case that the stock that
16 the victims will get is restricted -- must be registered, and
17 the registration rights agreement must address the time,
18 volume, and manner of the sale of the stock. If you'll go to
19 the next slide?

20 Under Rule 144 -- hold on, Your Honor. I have to move
21 this to the side.

22 Under Rule 144, if an investor owns restrictive
23 securities, it must hold the securities for six months before
24 it begins to sell them and essentially is locked up while it's
25 an affiliate for every three months. Every three months, it

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1 can sell at most one percent -- not one percent of its
2 holdings, but one percent of the company's outstanding shares.

3 So for example, if we end up having twenty-four
4 percent of the stock and the one percent rule applied, you
5 could have essentially five to six years. There are blackout
6 periods, too, which can extend the period. If you're no longer
7 an affiliate, you can move it up. But essentially, we're
8 looking at five to six years, arguably, of locking up this
9 stock, where the victims' trustee would not be able to
10 liquidate it, and the victims would have to wait too long.

11 And let me tell you my view of this. We have one of
12 the best mass tort trustees and claims administrators around.
13 We've got Justice Trotter and Kathy Yanni. You know, this is
14 not Justice Trotter's first rodeo. He's done these fire victim
15 cases before. And Justice Trotter's going to have financial
16 advisors and investment bankers. They're not going to sell all
17 this stuff at once. It's not to their benefit to sell it all
18 at once. They're going to want to stage it in accordance with
19 their fiduciary duties to maximize the recoveries. It doesn't
20 benefit them to dump it. It doesn't benefit the market to dump
21 it. They're going to do the right thing.

22 I prefer a registration rights agreement that simply
23 gives them the discretion. But I can't tell you what's been
24 going on in mediation. But there's an inference here, Your
25 Honor. This has been going on for three months. Is this

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1 good-faith negotiation over registration rights agreement, or
2 has it been a lockup of Mr. Julian being able to explain to the
3 public he knew what's going on? I think the inference is
4 clear.

5 Let's go to the next slide. Let's talk about what the
6 RSA really does say. There are two key requirements for
7 registration rights agreement for the Fire Victim Trust in the
8 RSA. One's in the RSA itself, and one's in amendment number 1.
9 Let's take amendment number 1 first.

10 Amendment number 1 essentially says that there must be
11 a reasonable agreement recommended by the debtors' underwriter.
12 So you start at the baseline. The baseline is, what are the
13 basic terms that we want PG&E to propose for registration
14 rights agreement? And that's in section 1.6 of amendment 1 to
15 the RSA. And essentially, what that says is that there must be
16 a reasonable registration rights agreement consistent with the
17 recommendation of the debtors' underwriter.

18 Once we have that basic set of recommendations from
19 the debtors' underwriter, we go to condition number 2, which is
20 in the term sheet to the RSA. And that term sheet states, at
21 page 48 of the RSA, that there are conditions to effectiveness
22 of the plan, two of them. The confirmation order -- yes, Your
23 Honor, your order itself and all definitive documents relating
24 to the plan: capitalization, equity, and debt financing shall
25 be in form and substance reasonably acceptable to the plan

PG&E Corporation and Pacific Gas and Electric Company

1 proponents and the requisite fire claimant professionals, which
2 are defined to be, as I'll show you in a moment, the TCC and a
3 majority of the outside thirteen professionals who represent
4 the seventy percent of the victims.

5 So what is the shareholder plan proponents' response
6 to my point that there are two requirements in the RSA? They
7 say that there's only one requirement, the first one. They say,
8 you know, once an underwriter gives us a recommendation, that's
9 it. Slam dunk, cram it down your throat. That's the real
10 cram-down going on behind the scenes in this case. And they
11 say that because it's an amendment to the RSA.

12 So their theory is while the RSA comes up with the
13 broad-brushed power in our hands that the TCC, just like the
14 backstop parties, have consent rights to the definitive
15 documents for capitalization, equity, and debt financing, that
16 when we clarify that in amendment number 1, that the
17 registration rights has to be -- also have recommendations from
18 the debtors' underwriters, that our consent rights in the
19 RSA -- the broad consent rights suddenly went away. And that's
20 not true because of the next slide.

21 As the next slide shows, the RSA amendment itself says
22 it does not constitute a waiver of any rights or claims related
23 to the RSA in all parties. That means the debtors, the
24 shareholder proponents, and the TCC and the outside
25 professionals agreed that we reserve any and all rights not

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1 expressly amended or modified. And when we agreed that an
2 underwriter could make recommendations -- basic
3 recommendations, that clause that I just showed you a moment
4 ago did not expressly amend or modify the TCCs and the outside
5 professionals' overall consent rights to the confirmation order
6 and the equity in debt financing agreements.

7 So you heard Mr. Ziman testify. He didn't recall a
8 registration rights agreement requirement for backstop parties.
9 And you heard Mr. Pitre, Mr. Kelly, and Mr. Skikos say whatever
10 registration rights they get, we should get, as a matter of
11 fairness, right? So let's see what the backstop parties'
12 financing letter agreements actually say. And that's in the
13 next slide.

14 That backstop letter commitment -- there's a example
15 at docket number 6013-3, at page 6, states that reorganized
16 holdco -- that's the PG&E holding company -- will enter into a
17 registration rights agreement with the backstop parties which
18 shall otherwise be in form and substance reasonably acceptable
19 to the holders of a majority of the aggregate backstop
20 commitments.

21 A couple of things here. First, it exists; second,
22 you'll note a common-sense requirement that these commercial
23 parties have reasonable consent rights to the registration
24 rights agreement, just like the TCC and the outside
25 professionals do. We negotiated for it. We have the same

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1 consent rights, or similar, that the backstop parties do. And
2 so the question is, when you have -- the first question is,
3 should we be guaranteed in the confirmation order that we have
4 our consent rights? The answer is yes, as I'll point out in a
5 moment. It's a state law contract right we have. It's a
6 condition of this plan that the debtor already agreed to.

7 THE COURT: Mr. Julian, I need to interrupt you with
8 something. I didn't anticipate this lengthy discussion. And I
9 welcome it, but I'm trying to absorb it all because I haven't
10 had any reason to go back and look at these documents in the
11 past.

12 But more importantly is are you advocating something
13 that is opposed by anyone? In other words, at the end of this
14 argument, is someone going to get up and say, Julian's full of
15 bologna; we don't have to do what he says? I didn't anticipate
16 that, so I'm not sure --

17 MR. JULIAN: Your Honor --

18 THE COURT: -- I'm not sure what the -- I appreciate
19 the education, but I don't know what the advocacy is all about
20 here. Tell me what -- the context of this argument.

21 MR. JULIAN: Yes. I believe the shareholder plan
22 proponents oppose the condition that we have to consent and
23 oppose equal rights for backstop parties and us, or I wouldn't
24 be making this argument. Again, I can't go into what's going
25 on in the mediation, but you can --

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1 THE COURT: I know you --

2 MR. JULIAN: -- let me just say it. It's disputed.

3 THE COURT: -- can't. I know you can't and I'm not
4 asking you, but you have to understand, because I respect the
5 mediation, I don't know until this very moment that this is
6 opposed. What I knew two days ago -- or three is that the TCC
7 and the debtors had settled four or five issues, and the
8 mediation was going forward on the backstop -- I mean, excuse
9 me, not backstop, the registration. And that's fine. That's
10 fine with me. But I didn't understand that this is then going
11 to be framed in terms of will I be asked to rule that I will
12 only approve a plan that includes the consent of the TCC or
13 will I hear on the other side that I can approve the plan that
14 doesn't have the consent of the TCC? I'm sorry, I'm misstating
15 it.

16 MR. JULIAN: I --

17 THE COURT: Will I approve a plan that has
18 registration terms that haven't been agreed to by the TCC? I
19 don't -- I still don't know what the rules are here.

20 MR. JULIAN: Well, we're going to hear from Mr.
21 Bennett and Mr. Karotkin, possibly. Maybe they've given in on
22 this. But we address this in our confirmation brief, docket
23 7306.

24 THE COURT: I know, but Mr. Julian, I cannot -- I
25 can't keep track of hundreds and hundreds of pages coming in

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1 like this --

2 MR. JULIAN: But that's the purpose of --

3 THE COURT: -- which ones are at issue and which ones
4 are not at issue.

5 MR. JULIAN: This is an issue, Your Honor. And
6 it's --

7 THE COURT: (Indiscernible)?

8 MR. JULIAN: -- it's going to be resolved by our
9 confirmation order at the end of this plan.

10 THE COURT: Okay. But I want you to understand
11 something, too. I'm not here to nag you. I'm trying to say
12 this: there's a document that's being negotiated called a
13 registration rights agreement. I, a judge, am being told if
14 there's no agreement, I have to make a decision. Well, how do
15 I make a decision that imposes upon someone an agreement that
16 he doesn't want to sign? So I just -- I hope there is a
17 resolution that's done in the mediation because I don't know
18 what I'm supposed to do otherwise. And I believe that Mr.
19 Karotkin said yesterday that even if I do confirm the plan,
20 that it may not become effective if there is not a registration
21 rights agreement, and I certainly assume that meant agreed to
22 by the TCC.

23 MR. JULIAN: Your Honor, I --

24 MR. KAROTKIN: Your Honor, can I interject?

25 THE COURT: Yes, I think so, if you can clarify this.

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1 Let me -- let's take the slide down, please, Ms.
2 Attard.

3 Okay, and -- all right, go ahead, Mr. Karotkin.

4 MR. KAROTKIN: First of all, we are hopeful that the
5 mediation will result in an acceptable registration rights
6 agreement, and that, obviously, is the first priority.
7 However, if there is no agreement, the way we understand the
8 documents is that all that is required is a registration rights
9 agreement that is compliant with the requirements set forth in
10 Section 1.6 of the plan, the same language that Mr. Julian just
11 discussed and put up on the screen, as well as the provisions
12 of the RSA. And if that type of agreement is presented and it
13 meets those requirements, then the Court can say that the
14 requirement that there be a registration rights agreement has
15 been satisfied for purposes of confirmation of the plan.

16 And I know Mr. Julian thinks he has unilateral rights
17 to either accept or reject that agreement. That is not what
18 the documents say. The documents provide a standard for what
19 is a reasonable registration rights agreement. And to the
20 extent they have consent rights, any consent rights, even if
21 they had them, would have to be within those standards set
22 forth in the plan and in the RSA. Otherwise, it would not be
23 reasonable.

24 Now, again, we're hopeful we can resolve these issues.
25 And by the way, they don't have any consent rights over the

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equity backstop agreement.

THE COURT: You just told me a little while ago that I had got one week to sign this order. I can't know that -- whether there is -- I can't even understand the issue that I have to decide in that kind of time frame when the first present -- first heads-up I have about this is this discussion.

MR. KAROTKIN: Okay. Your Honor, --

THE COURT: And I've got to be honest with you, I don't -- I'll do what I'm asked to do, but I got to know what I'm supposed to do.

MR. JULIAN: May I continue?

MR. KAROTKIN: May I just say one last thing?

THE COURT: Yes.

MR. KAROTKIN: We understand that. As I said, we're involved in mediation. Hopefully, it will be resolved and you won't have to address it. It also is possible, although I don't want to commit to it now, that this issue can be something that can be addressed either consensually or by Your Honor in a decision subsequent to the entry of the confirmation order so we don't run into a problem with AB 1054, but prior to the effective date.

THE COURT: Well, I'm going to put that on your to-do list, Mr. Julian. If there's not agreement between now and, you know, middle of next week, if you're willing to defer that in the way that Mr. Karotkin said, I'll do it. And if it's

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1 something that you feel it's important that be presented to me
2 and make a decision, you've just got to -- you've got to focus
3 me on what I've got to go look at. I mean, seriously --

4 MR. JULIAN: I'm trying to do that.

5 THE COURT: -- the last time I looked at the RSA was
6 the day I approved it how many months ago? So I just -- okay?
7 So all right.

8 Well, go ahead back to your presentation, okay?

9 MR. JULIAN: Your Honor, you have been done a
10 disservice in the fact that we have been locked up in a
11 mediation from telling you about the dispute. In my view, this
12 was calculated, okay?

13 THE COURT: Okay.

14 MR. JULIAN: So let's just move on. What I'm trying
15 to do is show you that there is a dispute, and I'm giving you
16 the tools to solve it easily.

17 THE COURT: I know, but you have to, in other words,
18 give me the break that -- knowing I've just now been presented
19 with the issue.

20 MR. JULIAN: That's why we're going to file this
21 PowerPoint so you can take it home over the weekend.

22 THE COURT: File this afternoon. I already am home.
23 I'll print it out this evening if you file it.

24 MR. JULIAN: We will do so, Your Honor.

25 So there are two ways to resolve this. One is in

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1 response to Mr. Karotkin's view that all they have to do is go
2 to their underwriter and say, what do you recommend, and they
3 can cram it down our throats, I gave you two sentences from the
4 RSA. If your confirmation order just quotes the sentences from
5 the RSA that I'm going to show you in a moment in a proposed
6 order, we're going to be happy, halfway. The only other choice
7 is to come back in here on a TRO right before the backstop
8 party funds, and that's not going to be a good way to litigate
9 this.

10 THE COURT: No, that is not -- that's not a good idea.

11 MR. JULIAN: The best way to litigate this is to -- to
12 resolve this is to have that mediation, resolve it like my
13 partners are trying to do with -- there's a whole group of
14 people, Your Honor, the fire victim trust, TCC, the shareholder
15 plan proponents, equity plan proponents, and the debtors are
16 all working very hard on this with their financial advisors.

17 But the second way to resolve it if it doesn't resolve
18 that way is to put into the confirmation order two sentences
19 that I'm going to come to in a moment. The first sentence,
20 I've already told you about. It has to do with consent rights.

21 The second one is a very simple concept. It's what
22 Mr. Pitre and Mr. Kelly and Mr. Skikos were talking about. And
23 that is that, look, as a matter of fairness, all you have to
24 rule is that all shareholders have the same rights. You can
25 rule that. And I'm going to show you why. We're the only ones

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1 who put in evidence on this.

2 THE COURT: Am I correct, though, the backstop parties
3 at the moment aren't shareholders, are they?

4 MR. JULIAN: No, but if they become shareholders, then
5 they are shareholders subject to their own registration rights
6 agreement.

7 THE COURT: Well, I understand, but it's a bit
8 circular, isn't it? I can't order somebody to have equal
9 rights with someone who doesn't have that status at the time
10 I'm making the order.

11 MR. JULIAN: Yes, you can, because the documents are
12 the debtors' documents.

13 THE COURT: Well, okay.

14 MR. JULIAN: All right. So we see that in the
15 document filed in front of Your Honor, which the debtors asked
16 you to approve, you have already approved a financing letter
17 that's in front of you that says reorganized holdco will enter
18 into registration rights agreements with the backstop parties.
19 And so that's --

20 THE COURT: I understand that. But Mr. Julian, I hate
21 to beat this to death, but I'm flying blind here. I'm reading
22 one sentence that doesn't say anything about the TCC.

23 MR. JULIAN: Yes, and I'm going -- yes, and so now,
24 I'm going to get to that.

25 THE COURT: Okay.

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1 MR. JULIAN: If you'll go to the next slide?

2 THE COURT: Because -- all right. I know you are.
3 But holdco and the backstop parties are not at odds with one
4 another.

5 MR. JULIAN: Correct. But you can direct the debtor
6 that whatever rights they grant to the backstop parties, they
7 must grant to us. You can direct the debtor to do that.

8 THE COURT: Maybe I can.

9 MR. JULIAN: And that's -- look what Mr. Williams
10 testified, our financial advisor. He put into his declaration
11 undisputed testimony, the comparable agreements -- the
12 comparable agreements are in the next slide. They're in six
13 bankruptcy cases that he reviewed. The comparable agreements
14 demonstrate by their terms that when a company requires a
15 lockup provision, that the lockup provision terms must apply
16 equally across all investors receiving stock in the offering.
17 All. And these other bankruptcy cases, the leading bankruptcy
18 cases in the nation in which this happened, none of the
19 comparable agreements required a lockup for certain investors
20 while exempting others. And none of them established a
21 different lockup across differently situated investors.

22 Let me go to the next slide and show you the cases
23 that this occurred in. Weatherford International, Southern
24 District of Texas; Avaya, Southern District of New York;
25 Caesars, bankruptcy case.

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1 THE COURT: I can read them. I mean, I can read them.
2 That doesn't mean anything to me. It's --

3 MR. JULIAN: Well --

4 THE COURT: -- you're just telling me five other
5 bankruptcy cases. What -- I mean, therefore what? It's his --

6 MR. JULIAN: His --

7 THE COURT: -- (indiscernible).

8 MR. JULIAN: May I answer the question? His testimony
9 is not disputed by any other evidence in the record, that in
10 the leading bankruptcy cases, shareholders did not get
11 disparate back rights.

12 Why should the backstop parties, who come in here and
13 put up nine billion dollars or two billion dollars, depending
14 on the IPO offering, get to sell their stock within two months,
15 whereas the Fire Victim Trust has to wait five years to
16 liquidate everything? That's just unfair, Your Honor. It
17 would be immoral.

18 And I made a prediction back in October; I said, Your
19 Honor, if you just hold off on the subro settlement, I can
20 basically guarantee you we might have a settlement tonight or
21 tomorrow. You held off on that subro settlement. You didn't
22 approve it that day back then and, lo and behold, that week we
23 had a settlement. I'm making the same prediction to you now.
24 We've been in this case now for a year and a half.

25 THE COURT: Go ahead.

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1 MR. JULIAN: If you give us this order, that I'm going
2 to show you in a moment, that guarantees us equal rights with
3 everybody else and guarantees our consent rights under the RSA,
4 we will get our registration rights agreement in the next five
5 days, and you won't even have me coming in --

6 THE COURT: Mr. Julian, come on, move on. I don't
7 want to look at these other cases; they don't mean anything to
8 me. Let me speed you up.

9 MR. JULIAN: All right. Let's go to the next slide.
10 Let's go to the next slide. Let me go back here to one slide
11 there to the -- let me go to the next slide, please, Lauren.

12 You are correct, Your Honor. Your memory is correct
13 about yesterday. Mr. Karotkin tried to correct Mr. Pitre, but
14 this is what the transcript actually shows. You said: "Could
15 I confirm this plan if that rights agreement matter is still
16 unresolved?" And Mr. Karotkin said, "I think you could. I
17 don't think the plan could go effective without it being
18 resolved, necessarily." So that's our point.

19 THE COURT: And I think my next line after that was,
20 well, what's the point; it would kind of gut the whole thing,
21 right? Something like that.

22 MR. JULIAN: That's why I think it's a good-faith,
23 state law, and feasibility issue.

24 Let's go to the next slide.

25 Here's what we want you to do in your confirmation

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1 order, enforcing the RSA and guaranteeing us equal rights.
2 I'll go over it slowly.

3 THE COURT: I can read it. You don't have to read it.

4 MR. JULIAN: All right. It essentially says, pursuant
5 to those two sentences in the PowerPoint that we quote from the
6 RSA in amendment 1, that the tort committee and the other
7 professionals must accept reasonable registration rights
8 agreements.

9 And the last sentence is important. It's what Mr.
10 Skikos, Mr. Pitre, and Mr. Kelly were talking about, with which
11 I concur: "All registration rights agreements with the various
12 shareholders must contain the same rights and limitations just
13 like in those other six bankruptcy cases that Mr. Williams
14 surveyed."

15 And the debtors' only response in their confirmation
16 briefs to those six cases is the following. "In those cases
17 the shareholders were similar, but in this case we have
18 backstop parties and fire victims." You know, that's a
19 distinction without a difference for two reasons. The idea of
20 similar stock offerings refers to preferred stock versus common
21 stock; that's number one.

22 Number two, we have similarly-situated shareholders in
23 this sense. The debtors are financing their payment of the
24 6.75 billion of cash to the fire victims with stock, and
25 they're financing the payment for that with stock to the

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1 backstop parties. It's a swap. And so there's even a greater
2 connection in this case than the other six cases. There's an
3 absolute quid pro quo connection between us and the backstop
4 parties dealing with the same bundle of rights and cash and
5 stock.

6 So for those reasons we believe if you put these two
7 sentences in your confirmation order you will do two things.
8 One, you will enforce the RSA settlement; two, you will make it
9 in good faith, because it's fair with everybody else and comply
10 with the industry standard and the other bankruptcy cases; and
11 three -- here's your answer to your question, Your Honor -- you
12 will make this confirmation order feasible.

13 You raised a very good question: How can I get around
14 the AB 1054 June 30 date if I let you decide whether you're
15 producing a registration rights agreement on July 1? You put
16 in your order now, these two sentences, basically, that we have
17 consent rights, just like the backstop parties do and just like
18 the RSA says, and that our -- whatever they give to the
19 backstop parties they have to give us, and I can guarantee you
20 this thing is over.

21 THE COURT: Mr. Julian? Mr. Julian, I've got to --
22 again, if I sound impatient, I'm really not trying to be. I'm
23 trying to keep from being overloaded with stuff I have to keep
24 track of. So please listen carefully.

25 If the other side, which I'm going to assume are the

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1 two groups of parties proposing the plan, the debtor and the
2 shareholder group, if they agree to this language, it's going
3 to take me about ten seconds to say I'll sign it. If they
4 don't agree to it, I have to work my way through to see if
5 you're entitled to it over their objections or not.

6 And when I'm told I've got to sign an order by next
7 Friday, I say, fine, okay, if I can do it, I'll do it; if I
8 can't, I can't. But before next Friday, and once you tell me
9 there's been no consent, I've got to have at least a little bit
10 of time to look at this document to make sure I know what these
11 terms mean, to make sure I know what the underlying documents
12 say. And the fact that I approved them a year ago is of no
13 consequence. And I simply can't do it if it -- and you make it
14 sound so simple when it's not simple.

15 And I'm not going to mess up the mediation by
16 announcing during this hearing a ruling on something I'm not in
17 a position to announce. And I realize that if I said here's my
18 take on this to A or B, that might influence people, but that's
19 not my role because it would be irresponsible for me to give
20 you an indication if I agree with you or not on this setting.

21 I certainly agree with you about the emotions and the
22 good faith and the expectations and what all these other very
23 good lawyers and you yourself have said. But that's not the
24 point; it's whether the law and the documents permit your
25 interpretation versus Mr. Karotkin's. So I'm not asking for

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1 sympathy; I'm asking for just an opportunity to do what you are
2 asking me to do if there isn't the preferable resolution by way
3 of a mediated solution. Okay?

4 MR. JULIAN: Thank you, Your Honor, and that's why I
5 think there is freedom and safety if you just adopt the two
6 sentences in the RSA term sheet and the amendment that we have
7 in this order.

8 THE COURT: So what I want from you or Ms. Attard is
9 today, on the docket, I want these slides, and I want -- I
10 don't want a brief, I don't want thirty pages with table of
11 authorities; I want a cross-reference, perhaps marked up. You
12 can take a marking pen and mark up the actual document numbers.
13 And again, for my sake, because I'm all by myself in my
14 sheltered home with my laptop, I need to be able to go right to
15 the document, not a cite to Mr. Richardson's declaration, which
16 I then have to go find and find the exhibit to his declaration
17 that has the exhibit to the document.

18 And if it comes down to just simply looking at this
19 paragraph or that paragraph, I will do my best to see whether I
20 agree with you or disagree. And even if I disagree with you,
21 as a legal matter, doesn't mean I disagree with you with all
22 the objective and emotional things that you've said. Because
23 you're preaching to the choir. But that doesn't mean I'm going
24 to be unfaithful to my oath to the rights of other litigants
25 like the debtors and the proponents, okay?

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1 I don't want to make a speech. I need you to go on.
2 You asked for an hour; you're almost up to an hour. Take a few
3 more minutes, and then we'll take a break. Okay. I'd like you
4 to finish your presentation if you can.

5 MR. JULIAN: Thank you, Your Honor. We will file both
6 a PowerPoint and the two documents and highlight them for you
7 as you requested. I think it'll be easy to follow.

8 If I could go to the next slide, I'd like to address
9 some of the other objections in the case. Some people objected
10 to the 1141 discharge. I think the debtors have responded.
11 I'd just to say that, from our view -- this is a speech for the
12 record -- the plan, we believe, preserves the TCC's and the
13 fire victims' argument that if a tree trimmer or consultant did
14 not file an indemnity claim in this case, they are not going to
15 be able, under 1141, to assert that as a setoff in the fire
16 victims' later lawsuit against them.

17 And here's the reason why, Your Honor. This is a
18 hundred-percent case. If anyone had a claim against the
19 debtors, if any tree trimmer or consultant or professional, who
20 we may end up suing, had a claim against the estate, and they
21 had filed it, they'd be paid in a hundred cent dollars. And so
22 if they failed to pursue that, then they shouldn't be able to
23 go against the Fire Victim Trust and reduce it or even go
24 against the debtor because the debtor will have ended up paying
25 twice for it.

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1 Next slide, please.

2 We also support the debtors' position that exculpation
3 should exculpate ordinary negligence. In your order issued on
4 December 22, 2003 in PG&E 1, at paragraph 26, the exculpation
5 clause that you approved there included ordinary negligence
6 and --

7 THE COURT: You're going to make sure I'm consistent,
8 right?

9 MR. JULIAN: Yes, Your Honor. Well, we think you were
10 right. I agree with Mr. Karotkin that this is usual, time-
11 tested, and true, and it's also important in this case to note
12 that the exculpation extends to the TCC and its members and
13 lawyers and representatives. And it's very important, Your
14 Honor, for me especially, because I worked with these folks for
15 a long time, to point out that the representatives of the TCC,
16 who negotiated the RSA and negotiated the mediated results,
17 were the lawyers for individual members on the TCC. And when
18 they went to those meetings they do so as representatives of
19 the TCC. And so, in my view, they are included within the
20 exculpation as representatives as well as lawyers. And we will
21 document that properly within the TCC to make sure we have the
22 predicate established for the full exculpation for everyone
23 here.

24 If I could go to the next slide. You asked me a
25 question about the securities litigation, Your Honor. Boy, I

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1 could probably talk for an hour-and-a-half on this, just like,
2 Mr. Etkin did, but I'm not going to. I will only say that we
3 are going to request, and we will submit a proposed language
4 for your confirmation order that says that the securities
5 plaintiffs' claims are subordinated, which the plan already
6 says. I do admit the plan already says they are subordinated
7 under 510(b). But we also need this in your order, that any
8 stock issued to them may not dilute the percentage of stock
9 owned by the fire victim trust.

10 THE COURT: Well, I think you're mixing two concepts
11 because you can reduce -- you can dilute without reducing
12 percentage, right --

13 MR. JULIAN: Well, here's the point.

14 THE COURT: -- because it just dilutes everybody else.

15 MR. JULIAN: But it comes out of old equity; it
16 doesn't come out of us. Otherwise --

17 THE COURT: Well, I understand that.

18 MR. JULIAN: Right.

19 THE COURT: And you don't have to state the obvious.
20 But to me the sentence is internally inconsistent because this
21 is something that Mr. Richardson, I think, raised months ago.
22 And I wondered why is he making such a big deal of this. If
23 there's a guarantee that the TCC will get -- and I believe it
24 was, what, 20.1 or 21 point something -- then the way you deal
25 with it is you dilute the other eighty percent. It's that

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1 simple, so --

2 MR. JULIAN: We're in agreement.

3 THE COURT: Okay. Then I don't need to have an order
4 to state the order must do what it has to do. I mean, the
5 concept is the same we're talking about. Is this a
6 controversy? I haven't heard any argument from the securities
7 plaintiffs. The debtor and the proponents aren't fighting this
8 provision, are they?

9 MR. JULIAN: When the -- yes and no. When the
10 argument shifted --

11 THE COURT: Well, I'll make your life easy. This is
12 easy.

13 MR. JULIAN: Thank you.

14 THE COURT: I'll do it this way but not with the
15 inconsistent concepts. I'll do this provision with the concept
16 being consistent.

17 MR. JULIAN: Your comments on the record -- your
18 ruling on the record, so to speak, is fine with me, Your Honor.

19 THE COURT: Okay.

20 MR. JULIAN: We can go to the next slide. We prepared
21 this for you just so you could see that the question raised
22 earlier as to whether or not the government settlements were
23 binding on the trustee, that clause is in the settlement
24 agreement itself. I understand the argument morphed a little
25 bit today to something else, but I just wanted you to know that

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1 the clause is in the settlement agreements themselves that
2 they're binding.

3 Next slide, please.

4 THE COURT: Wait a minute. Well, I believe it's the
5 trustee's lawyer that wants belts and suspenders here for the
6 reason that he said this morning.

7 MR. JULIAN: Well, there are two questions presented,
8 fairly. The first question, raise by Mr. Pascuzzi was whether
9 the settlement was binding on the trustee. The second point,
10 raised by the fire victim trustee, in my view, is a very simple
11 one: Can the fire victim trustee and its oversight committee
12 amend a trust agreement to provide for anything? The answer is
13 yes. And if they want a release for themselves because some
14 litigation happens later on, in my view, that's perfectly
15 within their business judgment. But so I just think there are
16 two different issues for Your Honor. One is --

17 THE COURT: But I think I dealt with the trustee's
18 authority with the ruling that I made a couple weeks ago with
19 the trust objection. And I believe I insisted on some court
20 oversight if there is --

21 MR. JULIAN: Yes.

22 THE COURT: -- some variation in the material.

23 MR. JULIAN: I understand that.

24 And then last but not least, let's see; I think I have
25 one more slide here. Yes, you asked about estimation. So the

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1 debtors requested two orders, as you may recall, in the RSA.
2 One was a 9019 settlement order, which you granted on, I think
3 it was December 16th, and then a backup order.

4 Let me explain why the debtors were being careful in
5 asking for two orders. One is under AB-1054, the fire victims
6 have to be treated fairly either in a settlement agreement --
7 it doesn't say settlement agreement -- but then says their
8 claims are paid according to an agreement or according to the
9 value estimated, essentially, was what it means.

10 So the debtors and the shareholder plan proponents
11 tried to be careful. They went for both types of orders. They
12 only needed one. So they already had complied with AB-1054 by
13 getting the 9019 settlement order in which Your Honor approved,
14 basic construct of RSA settlement, as being fair and reasonable
15 and proper in this case. So later on, they went forward to get
16 sort of a belt-and-suspenders estimation order. We don't have
17 that entered by Judge Donato yet.

18 I will tell you that one of the issues raised is that
19 some of the parties -- you know, they think they're smarter
20 than Mr. Orsini and me -- they want an estimation order that
21 just says 13.5 on it. And Mr. Richardson and I and Mr. Orsini,
22 we correctly note that the true value here is not just 13.5 of
23 cash and stock but it's cash and stock, it's the assigned
24 claims, it's the assigned rights, it the assigned policies, a
25 whole bundle of rights which have great value.

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1 So we have asked Judge Donato to estimate in that type
2 of framework. If he's uncomfortable doing that, we've simply
3 pointed out that we have our 9019. My only point to you is in
4 view of the settlement order, we don't think an estimation
5 order, a pendency can hold up this plan confirmation. But we
6 haven't heard from Judge Donato yet on that. And I just wanted
7 you to know our position on that.

8 THE COURT: Yesterday -- did you hear that suggestion
9 yesterday that some people believe that Judge Donato should be
10 requested to dismiss this case? Is that still on the table?

11 MR. JULIAN: I've heard that. Mr. Orsini and I have
12 not requested that. We have asked him to enter the estimation
13 order the way I mentioned.

14 THE COURT: No. I know you haven't talked -- no.
15 Well, I read the transcript of the hearing the other day, on
16 the 30th or 28th or whatever it was, in front of Donato. But I
17 believe Mr. Marshack, yesterday, said he had discussed with
18 both official committees a prospective suggestion that Judge
19 Donato not do anything. Again, I'm not taking a position on
20 this. Is this slide an action item for me?

21 MR. JULIAN: No. It's information because you asked
22 the question. I'm answering the question.

23 THE COURT: Okay. But answer it lay terms again.
24 Suppose the rights thing is resolved, suppose we get all these
25 other belt-and-suspenders taken care of, and I sign the order,

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1 but Judge Donato hasn't signed his order. What happens? What
2 happens on Friday? What happens to the funding? What happens
3 to the effective date in your mind?

4 MR. JULIAN: Yeah. I do have a position on that, Your
5 Honor, but I'd like to hear from Mr. Karotkin first on that
6 because it is being discussed amongst both firms.

7 THE COURT: Well, I'll just make this proposal. I'm
8 steadfast in not even interjecting myself or attempting to
9 interject myself before Judge Donato. I don't believe that's
10 appropriate. But if Judge Donato perhaps needs to be reminded
11 that he should do something more quickly, I'm not bashful about
12 telling him -- particularly if I am going to sign my order, to
13 say, by the way, they're waiting for you order.

14 But sometimes it's be careful what you ask for. So
15 I'll -- look, you don't have to respond, Mr. Julian. You, the
16 debtors' lawyer, and if there's anyone else that wants me to be
17 involved in at least judge-to-judge, on-the-record-kind of way
18 asking something to happen, all you have to do is ask me. And
19 I'll --

20 MR. JULIAN: We'll get back to you, Your Honor.

21 THE COURT: Okay.

22 MR. JULIAN: But in our position, the plan can go
23 effective without the estimation order because you've approved
24 the settlement as fair and reasonable under 9019.

25 Last slide, Your Honor, last but not least, we believe

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1 that the confirmation order should simply confirm that it does
2 not release the insurers of any of their obligations to the
3 fire victims. This is important because, Your Honor,
4 representations were made to you when you approved the
5 subrogation settlement, that there was 3.6 billion dollars in
6 reserves ready to be paid out to the fire victims. And Your
7 Honor, I must tell you, you know, we all took that into account
8 when we settled at the 13.5 billion dollar number plus the
9 assigned rights and claims. The 3.6 billion of extra,
10 additional reserves has to come in.

11 Now, I'm not asking you to order that, but we do want
12 the confirmation order just to simply recite that nothing in
13 the confirmation order shall be deemed to release any insurer
14 of their contractual or common law obligations. We do have
15 that one narrow release that the TCC and the fire victim
16 professional negotiated with subro. We stand by it. We think
17 it was a good compromise in mediation. And that is of record
18 in this case. But otherwise --

19 THE COURT: Has Mr. --

20 MR. JULIAN: -- we think.

21 THE COURT: Has Mr. Feldman agree to this position?

22 MR. JULIAN: We're going to run it by him, Your Honor.

23 THE COURT: Well, again, it's like so many other
24 things. If he agrees to it, you won't get any resistance from
25 me. And if he doesn't agree, I don't know whether it's

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1 appropriate or not, but I probably would want to make sure that
2 he has been heard on the subject, so --

3 MR. JULIAN: Yes, Your Honor. Absolutely --

4 THE COURT: Mr. Julian, it sounds pretty bland or
5 benign. But again, what would I know?

6 MR. JULIAN: Your Honor, that concludes my remarks.
7 Once again, I want to thank you and just reiterate that your
8 seven rulings that you made, that I outlined before, are very
9 similar, I think, to the request we make today for the fire
10 victims with respect for registration rights: enforcing simply
11 the words in the RSA settlement agreement that we negotiated
12 and that you approved; and secondly, making sure that whatever
13 rights are given to any other shareholders are given to us.

14 THE COURT: Okay. Thank you for your very thorough
15 presentation, Mr. Julian.

16 MR. JULIAN: Thank you, Your Honor.

17 Mr. Karotkin, I don't know about you, but I'm kind of
18 overloaded. How are you doing?

19 MR. KAROTKIN: Yeah. I'm kind of overloaded too.

20 THE COURT: Well, I had in mind perhaps hearing from
21 you and Mr. Johnston based upon the kind of stuff that Mr.
22 Julian just talked about. Again, I wish and hope that there is
23 a successful resolution. But I feel at a point where --
24 whether I'm physically tired, I'm not. I'm just sort of
25 mentally trying to keep track of all these things. And your

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1 closing argument and Mr. Johnston's argument, particularly on
2 the issues that are framed in the security --

3 MR. JULIAN: Oh, Your Honor --

4 THE COURT: -- are important, and I don't want -- I
5 don't want to give them a short shrift.

6 Yes, Mr. Julian?

7 MR. JULIAN: I apologize. I forgot. There was one
8 thing I wanted to help out with. You had a motion for an
9 examiner. I just wanted to inform you that, again, whether you
10 appoint an examiner in subject to your discretion, but I wanted
11 you to know that when these voting complaints came up about
12 irregularities, we established a Baker review team, due
13 diligence team, to work Mr. Karotkin's firm and Prime Clerk.

14 Mr. Karotkin's firm and Prime Clerk turned over all
15 documents that we requested in order to investigate whether
16 there were irregularities on a systemic basis and whether that
17 affected the vote. We've gone through 75 percent of the data
18 turned over by Weil, Gotshal, and Prime Clerk. And our
19 preliminary conclusion was that we didn't see anything that we
20 believed affected the 66 percent threshold though.

21 We obviously wanted to go through it some more, but if
22 Your Honor wanted to, in response to the questions raised by
23 victims -- they weren't necessarily asking for an examiner.
24 They just wanted to know what the answer to the question was.
25 If Your Honor wants us to, the TCC would be happy to conclude

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1 its investigation and file a report with the Court in case Your
2 Honor doesn't want to go through the expense and bureaucracy of
3 having an examiner in the case.

4 THE COURT: Well --

5 MR. JULIAN: We are fiduciaries to all the victims,
6 and we will give a proper report if Your Honor requests us to
7 do so.

8 THE COURT: Well, there weren't -- a couple of quick
9 responses. I was, frankly, surprised that I didn't hear from
10 you in a formal sense from the TCC in response to the motion.
11 And I was also, for other reasons, surprised that I didn't hear
12 from the United States trustee, but that's a different issue.
13 And I took the matter under advisement, and if I choose to
14 order one, I don't get to select the one anyway. The US
15 Trustee has to do the selection.

16 But I think it would have been helpful if what you
17 just said was stated on the record. So I'd appreciate if you
18 would -- not a tonight, panicked, Friday-night thing. You got
19 to deal with high priorities. But next week, I really think it
20 would be helpful if you would put something on the docket that
21 summarizes what you just said.

22 And I will make a decision regardless of what you just
23 said. In other words, I will decide whether I think there
24 should be an examiner or not. And if I think there should be,
25 the examiner and Baker & Hostetler and you should probably

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1 coordinate. If I decide no, for whatever reason, then maybe
2 you could perform a wonderfully valuable service for the people
3 that want the answers to the question and don't -- and that was
4 the thrust of several of the people that spoke yesterday. So
5 you don't need to respond. I'm not mad at you. You've had
6 your hands full.

7 MR. JULIAN: Well, I would like to inform you. So on
8 the day that the response was due, we weren't through enough
9 data. We continued our response. And so then I was not called
10 into the courtroom on that motion, and so I raised my hand at
11 the end -- you may remember -- but I got caught up in the Will
12 Abrams and everybody else. And you had asked me not to come
13 into the courtroom. So I was ready to report to you.

14 But Your Honor, it's an important point. We are
15 prepared to file something. And I note Mr. Karotkin's comments
16 and his point. He didn't say it explicitly, but I think he
17 said it impliedly. When you get someone like a special
18 prosecutor or examiner into a case, they become their own sort
19 of bureaucracy and they have to justify themselves, so to
20 speak.

21 And I do see Mr. Karotkin's point that there could be
22 delay in the case because of that. Because the TCC represents
23 the interest of all fire victims and is a fiduciary, we are
24 happy to continue our due diligence and file a report. I will
25 file a preliminary report on Monday or Tuesday as you

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1 requested.

2 THE COURT: I took the matter under advisement the way
3 I did. The fact that I might have missed you on your hand-
4 raising thing, I know you too well and you're too thorough and
5 your firm is too thorough. I would have assumed that you would
6 have filed something if you wanted to take a position. And to
7 be honest with you, I probably thought that your nonfiling was
8 a statement of no position. And so it's okay. It's fine what
9 you did.

10 What I'm getting at is that I'm still going to make a
11 decision up or down based upon the arguments that were placed
12 on the record yesterday or whenever it was. And I'll also tell
13 you that as much as I'm concerned about some of the things that
14 were raised by some of the people who spoke, in terms of
15 priorities, we've got some higher priorities to deal with. You
16 do. I do. Mr. Karotkin does.

17 And I just don't have drafting a decision on the
18 examiner motion on my top of the list, especially with what
19 we've talked about in the last couple of hours. So you go
20 ahead and file something. The motion for the examiner will
21 stay submitted. I will get to it when I can. And that's
22 what'll happen just like any other ruling. Okay.

23 MR. JULIAN: Thank you, Your Honor.

24 THE COURT: Mr. Karotkin, I think you were just
25 agreeing with me that you're tired. And I'm tired. And so I'm

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1 inclined to think that if I can get my internet to work, we
2 should just conclude these matters on Monday. And sort of in
3 reverse order, you and Mr. Johnston as the closers, if you
4 will, but before that, Mr. Bray or any of the counsel for some
5 of the points that are still open and maybe still will get
6 resolved.

7 I mean, look, we got the short list of what was not
8 resolved today by the various paragraphs that were mentioned.
9 Based upon your comments, I believe I would be safe in -- if I
10 do make the decision to order the plan confirmed by next
11 Friday, I think I would be safe in not closing the loop on each
12 and every item that's open. I mean, I don't think that whether
13 paragraph such-and-such that deals with eminent domain is going
14 to impact the financing efforts once there's an order. But
15 again, that's just a risk I take.

16 MR. KAROTKIN: I can confirm that eminent domain has
17 been resolved, so you can sleep easy tonight.

18 THE COURT: Say that again, please.

19 MR. KAROTKIN: I can confirm that eminent domain has
20 been resolved, so you can rest easy tonight.

21 THE COURT: Okay. But you know what I meant.

22 MR. KAROTKIN: I do. I do.

23 THE COURT: I think points like Mr. Julian's point
24 and -- well, I mean, obviously, Mr. Julian's point is a
25 significant one. Well, I'm actually going to ask you a

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1 question again in just a minute. I was just reflecting it has
2 been a long day even with my interruptions, and I don't even
3 know, for example, if the securities litigation issue, which
4 are critical issues, are so time sensitive. And I can take my
5 chances on that.

6 But now I want to go back to my finished product. You
7 and I never met before last January 29th, but you've learned a
8 little about my style, and I've learned a lot about yours. I
9 prefer to have reasoned decisions in the form of memoranda and
10 sometimes intentionally not signing an order. Would it suffice
11 for the marketplace and, to term loosely, the money-raisers to
12 have a memorandum that isn't technically an order that
13 indicates that if I'm satisfied, I will sign a confirmation
14 order? Or do they actually have a real -- real order have to
15 be signed?

16 MR. KAROTKIN: Your Honor, I'm not exactly sure. I
17 would like to -- if I could have the opportunity to speak with
18 them over the weekend.

19 THE COURT: Okay.

20 MR. KAROTKIN: I could let you know first thing Monday
21 morning.

22 THE COURT: Well, keep in mind again that, I mean,
23 when we get down to paragraph 41 and paragraph -- so the
24 paragraphs that were mentioned about the securities thing, and
25 some of the things that are literally not significant -- I

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1 mean, look, they're significant in everyone's case, but they're
2 not significant in these big ticket items. So when you tell me
3 that eminent domain's resolved, that's fine, but that still
4 means it's going to be reflected somewhere in an order.

5 So it would seem to me that those are the kinds of
6 things that don't have to have the word order on it, but the
7 word order often triggers appeal times. And I believe that if
8 I sign an order confirming the plan, that triggers appeal
9 rights. And I don't know that you want appeal rights -- well,
10 I don't know.

11 I'll tell you what. If I issue a memorandum that
12 says, based upon this and this and this, I will do something,
13 if that is enough to set things in motion that have to be dealt
14 with in such a time-sensitive basis, then it makes it a little
15 easier for all of us to end up with a real order that then
16 triggers the appeal events, satisfies AB-1054, and gets done on
17 a more deliberate basis. Why don't you put that on your list
18 of things to get to get back to me on when we talk on Monday?

19 MR. KAROTKIN: I have it. Thank you, sir.

20 THE COURT: You want me to -- well, okay. In another
21 situation or circumstances, not because it's Friday afternoon
22 or evening in New York or so vitally urgent that I had to
23 impose on everyone to work on Saturday or Sunday in court, I
24 would do that. I think I can risk that, give everyone their
25 lives to lead and just resume hearing the confirmation at 9:30

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1 on Monday morning with the understanding that --

2 Again, Mr. Karotkin, I'll ask you to be in touch with
3 the other principal counsel so that Mr. Bray particularly, any
4 of the other counsel that we heard from this morning want to be
5 heard, and then you and Mr. Johnson will have the opportunity
6 to make your closing arguments.

7 I still, once again, have hands up from Ms. McDonell
8 and Mr. Abrams. I'm simply not going to deal with them today.
9 I don't mean to be rude to them. I simply have my hands full,
10 and I cannot take the time to deal with them today. I'll do my
11 best to hear from them on Monday.

12 All right. So unless either of you principal counsel
13 have any objections, I'm going to thank you for your long day
14 and wish you a productive weekend. I can't just say a happy,
15 fun weekend. Go get your job done, Mr. Julian. Get that thing
16 mediated. Send my regards to Judge Newsome.

17 MR. JULIAN: He's listening right now, Your Honor.
18 Guy --

19 THE COURT: I wouldn't know. I'm not even look -- I
20 didn't ask him to put up his hand. Tell him I've identified
21 him as my secret weapon. I've threatened to turn him loose on
22 some other cases too, so. All right. Thank you all for your
23 time. Thank you to my staff, Ms. Parada, Ms. Thomas. Thank
24 you everyone for participating. Stay well. I'll look forward
25 to Monday morning.

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1 MR. KAROTKIN: Thank you.

2 THE COURT: And Mr. Julian, I'll look forward to
3 something from you and your colleagues on the docket as quickly
4 as this evening so I can start to review them, okay?

5 MR. JULIAN: Thank you, Your Honor.

6 MR. KAROTKIN: Thank you.

7 THE COURT: Thank you very much.

8 (Whereupon these proceedings were concluded)

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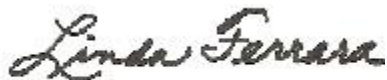
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C E R T I F I C A T I O N

I, Linda Ferrara, certify that the foregoing transcript is a true and accurate record of the proceedings.



/s/ LINDA FERRARA

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Date: June 8, 2020

	12:2,21,22;57:21; 62:22;151:25;153:18; 157:5	73:2,7;142:5;146:8; 147:15	advisor (1) 162:10	agencies (7) 4:24;10:4;25:13; 26:4;28:12;32:4;33:13
#			advisors (4) 29:23;30:17;150:16; 160:16	agency (4) 21:1;26:9;34:9; 138:22
#207 (1) 188:12	acceptance (1) 140:2	adding (3) 73:20;95:13;139:8	advocacy (1) 154:19	agenda (1) 54:7
\$	accepted (2) 22:5;102:15	addition (3) 23:13;27:13;107:16	advocating (1) 154:12	aggregate (2) 59:14;153:19
\$17.74 (3) 89:6,8,25	access (2) 45:16,20	additional (10) 5:3;22:2;26:7;27:12; 61:12;72:24;104:2; 116:16;119:8;177:10	affect (1) 95:25	ago (14) 10:20;12:20;21:25; 22:4;29:2;98:22; 144:12;153:4;155:6; 158:2;159:6;167:12; 171:21;173:18
\$22.2 (1) 59:15	accomplish (2) 115:18;127:15	address (31) 5:6;9:11;13;11:1; 13:4;24;15:21;18:15; 21:23;24:12;57:24,24; 64:6,9,20;120:20; 122:4;123:16;124:18; 127:17;128:23;131:20; 137:6,7;141:23; 142:14;145:7;149:17; 155:22;158:16;169:8	affected (2) 179:17,20	agree (21) 13:14;14:2;21:9; 24:8;45:2;52:18;74:21; 24:83;10:9;23:94:2; 109:7;148:18;167:2,4; 20:21;168:20;170:10; 177:21,25
\$24.01 (1) 89:7	accomplished (2) 43:2;142:17	addressed (7) 11:18,18;21:25; 96:14;116:2;142:15; 158:18	affecting (1) 66:2	agreeable (2) 41:25;43:11
\$68.25 (2) 84:17;95:2	accordance (2) 35:19;150:18	addresses (3) 13:11;119:23,25	affects (1) 39:1	agreed (8) 15:7;48:15;148:17; 152:25;153:1;154:6; 155:18;156:21
\$69.29 (2) 84:15;85:1	according (2) 174:8,8	adequate (1) 142:11	affiliate (6) 70:19;74:9;149:12, 13,25;150:7	agreeing (1) 182:25
/	account (16) 80:21,25;94:17;97:1, 11,13,19;98:16,18,20; 106:10;113:12,14,24; 123:24;177:7	Administration (4) 30:20;31:3;131:25; 141:11	affirmative (1) 65:11	agreement (77) 4:15;9:8;26:3,9,10, 14,16;27:2,6,10;29:2, 19,19,20;30:13,19,24; 31:4;32:8;33:23,23,24; 34:6;39:1;43:4,5,12, 13;50:11,24;51:18,25; 52:3,18;53:6;91:9; 93:16;131:12;136:23; 137:3;140:4;147:12, 18;149:17;150:22; 151:1,7,11,14,16; 153:8,17,24;156:13,14, 15,21;157:6,7,9,12,14, 17,19;158:1,23;161:6; 164:4,15;166:15; 172:2,24;173:12; 174:6,7,8;178:11
/s/ (1) 188:9	accounted (2) 86:21;92:17	administrative (3) 21:1;33:12,15	affirmatively (1) 46:23	agreements (26) 26:10,15,20,25; 27:15,17;28:7;29:18; 30:19;31:2,14,17; 33:20;35:24;146:24; 147:23;153:6,12; 161:18;162:11,12,13, 19;165:8,11;173:1
A	accurate (2) 13:23;188:4	admirably (1) 115:8	afraid (1) 115:21	agrees (2) 95:22;177:24
AB (6) 51:21;52:14;64:2; 122:7;158:20;166:14	acknowledge (3) 69:3;74:6;103:3	admits (1) 110:1	afternoon (14) 24:25;26:1;55:6; 85:20;86:2;121:1,7; 128:3,6,8,17;130:16; 159:22;185:21	ahead (14) 27:24;39:8;41:9; 57:17;63:11;90:1;96:6; 100:22;102:2;139:10;
AB-1054 (3) 174:5,12;185:16	acquire (1) 20:17	admission (7) 27:3,8,11;28:21; 29:22,23;58:14	again (47) 14:2;17:6;18:11; 21:20,23;23:4,21,23; 25:13;27:15;28:13; 32:1;37:4;63:4;71:17; 88:3,20;89:10;93:3; 96:9;99:23;102:1; 108:25;116:24;118:20; 121:3;123:4;124:5; 130:25;133:18;154:24; 157:24;166:22;168:13; 175:19,23;177:23; 178:5,7,22;179:9; 183:15,18;184:1,22; 186:2,7	
ability (2) 41:24;42:20	acquired (1) 41:12	administrators (1) 150:12	against (76) 8:1;31:7;61:7,8,10, 15;63:12;64:17;65:16, 20,24;66:12,14,25; 67:3,21;68:6,10,10,20, 23;69:5,10,19,21; 70:13,17,22;71:4,12, 13,14,15,16,18,21; 72:3,13,15,17;73:3,20, 25,25;74:1,7;89:17; 97:5,9,12,13,19,21; 98:1,3,10,17,19,20; 99:6,21;100:9;101:7; 102:11;103:4;113:6; 116:22;133:24;138:4; 139:12,15;169:16,18, 20,23,24	
able (18) 22:16;31:14;38:11; 46:22;50:5;68:1;73:9; 85:7;86:1,4;101:23; 111:8;119:3;150:9; 151:2;168:14;169:15, 22	across (3) 142:24;162:16,21	admission (1) 171:6		
above (2) 94:6;142:22	Act (4) 61:8,14;95:9;125:25	adopt (2) 137:17;168:5		
Abrams (10) 25:6,7;44:4;46:5; 50:22;53:25;137:21; 145:5;181:12;186:8	acting (2) 60:16,19	adopts (1) 70:25		
Abrams' (1) 44:22	action (10) 20:24,25;21:2;22:21; 23:13,14;66:2;101:17; 133:24;175:20	advanced (2) 132:2,15		
absence (2) 51:18;112:10	actions (6) 20:14,15;21:6,14; 23:3;41:17	advancing (1) 23:19		
absent (3) 45:2;60:24;94:18	active (1) 58:17	Adventist (3) 16:5;36:14;37:23		
absolute (3) 102:25;121:11;166:3	actual (4) 51:11;59:5;138:6; 168:12	advised (1) 138:5		
absolutely (5) 24:2;82:10;96:10; 101:4;178:3	actually (32) 17:24;18:17;36:10; 42:21;46:3;55:11; 56:10;63:16;72:25; 74:25;75:15;77:9,16; 78:13;79:6;87:3; 101:17,18,18;102:5; 103:17;110:12;111:1, 18;135:7;138:7;142:9; 147:21;153:12;164:14; 183:25;184:14	advisement (2) 180:13;182:2		
absorb (1) 154:9	add (8) 25:17;39:16;45:11;			
accept (7) 41:20;42:7;125:21; 140:3,15;157:17;165:7				
acceptable (8)				

157:3;159:8;163:25; 182:20 air (2) 24:23;89:20 al (1) 29:19 alignment (1) 100:1 allegations (3) 68:21;78:22;100:18 allege (1) 101:21 alleged (6) 78:11;82:1,2;88:6; 90:16;113:13 allocate (1) 74:18 allocated (2) 54:19;57:16 allocation (3) 75:5,10;91:3 allow (2) 8:7;132:9 allowable (1) 92:15 allowance (3) 74:3;77:14;114:16 allowances (1) 81:21 allowed (19) 8:15;74:15;76:6,22, 23,23;77:2,3,4;80:22, 25;81:5,16,17;82:12; 96:8,11;113:8;114:10 allowing (1) 111:2 allows (1) 86:25 alluded (1) 112:10 almost (2) 139:7;169:2 alone (2) 20:9;137:25 along (4) 8:16;19:2;92:1; 93:17 Alsup (2) 143:6,15 Alsup's (3) 47:20;143:13,16 alter (1) 110:7 alternative (3) 79:23;146:7,10 alternatives (1) 113:11 although (5) 65:18;117:10; 124:17;135:18;158:16 always (2) 44:10;105:18 ambiguity (1)	67:7 amend (2) 153:4;173:12 amended (6) 62:3;68:18,22;78:11; 90:16;153:1 amendment (10) 140:9;151:8,9,10,14; 152:11,16,21;165:6; 168:6 American (1) 67:13 among (3) 11:13;50:15;59:13 amongst (1) 176:6 amount (24) 6:15;15:18;70:7; 76:6,9;77:10,12;79:19; 80:22;81:1,2,5,7,18; 82:12,16;84:11;87:3, 22;92:12;113:24; 133:21;137:25;139:5 amounts (8) 7:21;81:13,14;82:9, 22;102:15;147:15,16 ample (1) 104:11 analysis (3) 76:2;79:17;100:19 and/or (2) 48:21;95:18 Andrew (2) 56:8;58:7 announce (1) 167:17 announcing (1) 167:16 anticipate (2) 154:8,15 anyways (1) 102:2 apart (2) 103:6;136:6 apex (1) 115:3 Apologies (1) 56:25 apologize (8) 14:16;57:1;73:10,12; 80:2;118:23;119:1; 179:7 apologizing (1) 85:18 apparently (2) 16:15;18:18 appeal (4) 185:7,8,9,16 appeals (1) 52:12 appearance (7) 19:6;37:1,8;55:5; 56:5;128:1,7	appearing (3) 19:12;128:4;131:1 appears (3) 63:2;65:18;85:3 appellate (1) 125:4 appended (1) 30:13 appendix (1) 32:9 appendixes (2) 32:10,12 applied (2) 66:24;150:4 applies (2) 66:7;97:7 apply (2) 99:6;162:15 appoint (1) 179:10 appointed (6) 60:10,11;112:11,13; 135:23,25 appointment (2) 60:5,9 appreciate (13) 13:21;19:24;39:18, 21;43:21;54:3;55:19; 63:14;109:14;110:3; 117:21;154:18;180:17 approach (4) 91:18;114:19,20; 137:16 appropriate (10) 9:12;13:4;17:3; 93:12;113:10,16; 119:21;120:10;176:10; 178:1 approval (8) 43:8;48:9,10;136:13, 13;144:19,20;145:1 approve (9) 50:13,14;135:22; 137:2;155:12,13,17; 161:16;163:22 approved (16) 16:2;26:11;27:14; 43:4;119:20;122:11; 131:8;137:4;159:6; 161:16;167:12;170:5; 174:13;176:23;177:4; 178:12 approving (2) 26:20;42:17 approximately (2) 37:17;141:7 April (3) 49:1;61:25;142:1 arbitrary (4) 79:24;84:22;86:9; 91:19 arbitration (3) 48:14;53:12,17	area (2) 20:5;127:1 areas (1) 63:19 arguably (2) 147:16;150:8 argue (4) 7:19;8:20;12:24; 24:16 argued (4) 7:16;29:10;78:5; 104:24 argument (37) 4:18;7:23,25;25:22; 27:16,19;54:18;55:13, 19;62:10;63:11;64:19; 65:6;66:18;104:14; 105:3;110:3;120:4; 124:24;125:21,22; 127:14;129:8;135:17; 137:1;140:19;146:22; 147:2;154:14,20,24; 169:13;172:6,10,24; 179:1,1 arguments (10) 16:19;17:8;64:7; 96:18;120:22;128:14; 132:10;135:7;182:11; 186:6 arising (6) 68:4,7;69:18;70:18; 74:8;105:23 arm's (1) 29:3 Arnold (1) 37:5 around (7) 5:23;39:6;52:10; 67:12;132:17;150:12; 166:13 arrived (1) 77:12 art (1) 135:18 Article (2) 65:22;66:7 articulated (1) 70:4 artificial (2) 94:7;105:15 artificially (1) 68:14 A's (3) 6:7,15;79:14 aside (4) 52:11;76:20;93:4,4 aspect (3) 40:15;41:10,15 assert (4) 61:14;86:9;99:17; 169:15 asserted (16) 61:21;66:11,25;	68:17,23;71:11,11,13, 14,15,16,17;72:13,15; 90:5;96:17 asserting (1) 59:1 assertions (2) 106:24;107:4 asserts (2) 61:5,8 assets (2) 20:18;139:16 assigned (7) 134:9;138:4,23; 174:23,24,24;177:9 assignment (7) 48:23;50:20;54:20; 121:9;133:24;134:4; 135:4 assist (1) 137:13 Association (1) 58:8 assume (9) 6:7,20;7:19;66:15, 23;94:3;98:9;156:21; 166:25 assumed (2) 66:19;182:5 assumes (1) 6:7 assuming (3) 99:23,24;121:10 assumption (1) 10:24 astronomical (1) 101:21 AT&T (1) 37:6 attach (1) 63:5 attached (3) 26:22;27:4;116:13 attain (1) 113:4 Attard (10) 130:2,4,9,14,16,17, 24;131:20;157:2;168:8 attempt (4) 8:25;65:18;112:23; 143:4 attempting (1) 176:8 attendance (1) 56:10 attending (1) 136:7 attention (3) 38:13,17;143:13 attorney (1) 40:1 attorneys (2) 26:1,2 attractive (2)
---	---	---	---	---

136:22;145:8 attributable (1) 98:12 audience (4) 25:21;36:1;39:6; 127:20 audio (18) 45:17,17,19;46:18; 62:12,15,23,24,25; 63:4;73:8,11,12,14; 76:19;85:11;134:10; 138:8 August (3) 52:16;140:24;141:3 aunts (1) 42:22 authorities (1) 168:11 authority (1) 173:18 authorized (1) 54:19 AUTOMATED (1) 7:9 availability (1) 129:4 available (3) 47:13;62:21;91:21 Avaya (1) 162:24 avoid (1) 144:7 avoidably (1) 41:22 awaiting (1) 62:5 award (1) 109:11 aware (7) 23:6;35:22;74:14; 98:25;109:1,2;124:25 away (8) 32:18;88:9,9,10, 14;140:10;152:19 AZ (1) 188:13	backers (2) 41:14;42:18 background (7) 31:10,21;32:25; 133:13;136:15;146:20; 149:10 backstop (37) 42:19;43:18;45:6; 48:8,11,21;49:11;51:9; 140:1,3;144:16; 146:23;147:17,22; 148:24;152:14;153:8, 11,14,17,19;154:1,23; 155:8,9;158:1;160:7; 161:2,18;162:3,6; 163:12;165:18;166:1, 3,17,19 backup (1) 174:3 bad (4) 27:9;57:13;143:4; 146:10 bailed (3) 5:25;77:19;92:9 Baker (6) 128:4;130:17;131:1; 141:19;179:12;180:25 ball (1) 125:1 balls (1) 24:23 bankers (1) 150:16 bankruptcy (38) 6:6,12,17;21:7; 34:14;47:22,23;48:25; 50:6;51:23;52:11,13, 22,25;53:1,2;61:9; 66:11;74:22;75:14; 81:11,13;98:2;103:19, 20;104:13,23;122:23; 135:18;147:21;162:13, 17,17,25;163:5,10; 165:13;166:10 bar (7) 44:9;49:16;58:25; 59:9;61:1;111:2,5 barely (1) 67:19 bargain (5) 86:12,14,22,25;87:8 bargained (2) 87:8;139:25 based (12) 41:18;68:11;71:19; 81:18;91:11,11;111:3; 113:25;178:21;182:11; 183:9;185:12 baseline (2) 151:12,12 bashed (1) 136:5 bashful (1)	176:11 basic (5) 44:7;151:13,18; 153:2;174:14 Basically (4) 27:7;103:18;163:20; 166:16 basing (1) 114:2 basis (17) 60:11;86:7,11;87:4, 15,16;91:2;117:7; 118:6;132:7;133:5; 143:17;146:22,23; 179:16;185:14,17 Bear (1) 89:19 bearing (1) 87:13 beat (1) 161:21 beauty (1) 77:4 become (7) 122:19,20;148:14, 17;156:20;161:4; 181:18 becomes (1) 40:21 bed (1) 75:19 begin (2) 4:18;21:25 beginning (2) 102:7;110:21 begins (1) 149:24 behalf (15) 22:23;36:14;37:17, 23;39:25;58:7;60:17, 19;61:22;101:14; 112:19;128:4,9;131:1, 22 behind (2) 143:2;152:10 Behlmann (99) 55:10,12,14,22;56:4, 5,6,7,8,8;57:16,20; 58:2,7;59:21,24;62:21; 63:2,5,14;69:1,2,6,17; 70:3,15,22;71:9;72:6, 10,20,21,25;73:9,12, 17;76:17;77:8;78:10; 79:6,10;80:15;81:10, 24;82:6,10,12;83:9; 84:2;85:2,4,13,22; 86:3;89:1,5,11,15,19, 23;92:13,22;93:7; 94:11;95:7;96:7,9; 97:25;98:5,9,24;99:1,8, 12;100:7,25;102:4; 105:10,13,21;106:2,16; 108:3,16;109:2,7,10,	14;111:22;112:10; 113:11;114:13;115:24; 116:9,23;117:24; 118:22;120:19;128:13 Behlmann's (1) 114:3 behold (2) 116:5;163:22 belongs (1) 8:3 belt-and-suspenders (2) 174:16;175:25 belts (3) 28:9,10;173:5 bench (1) 132:1 benchmark (1) 133:8 beneficiaries (1) 58:16 beneficiary (1) 99:10 Benefit (12) 11:7;62:13,13;86:12, 14,22,24;87:8;144:10; 150:17,20,20 benefits (4) 47:12;58:15;136:17; 137:22 benefitted (1) 147:4 benign (1) 178:5 Benjamin (1) 37:5 Bennett (2) 95:23;155:21 besides (2) 79:23;149:15 best (10) 6:22;14:19;95:5; 121:10;126:19;133:8; 150:12;160:11;168:19; 186:11 best-interest (1) 48:3 betrays (1) 42:16 better (9) 37:14;45:12;47:21; 48:2;53:24;89:21,22; 121:4;124:14 beyond (2) 17:23;23:11 Biaggio (9) 69:4,8,9,12,16; 70:24;71:2,19;93:5 big (4) 28:11;34:2;171:22; 185:2 bigger (2) 76:1;113:21 biggest (1)	145:22 billion (19) 88:13;132:14,17; 133:15,22;134:7,13; 135:20;138:2,2,14; 139:6;140:18;163:13, 13;165:24;177:5,8,9 billion-dollar (2) 84:4;88:4 billions (1) 110:13 binary (1) 95:2 binding (5) 43:5;71:7;172:23; 173:2,9 bit (23) 11:1;21:16;36:24; 57:23;58:4;59:17;61:3, 20;78:12;83:23;84:8, 10;86:19;87:5;90:2; 104:2;114:17;116:4; 128:13;129:22;161:7; 167:9;172:25 blackout (6) 121:14,17;123:24; 126:10;127:2;150:5 blackouts (3) 46:16;48:7,17 blame (4) 4:11;77:23;85:19; 89:16 bland (1) 178:4 blank (2) 52:16,16 blind (1) 161:21 blow (1) 34:11 board (2) 16:10;145:4 boat (2) 99:2;103:24 bologna (1) 154:15 bona (1) 116:25 bond (1) 45:6 bondholder (3) 133:17,23;134:3 bondholders (2) 49:20;134:22 borrowing (1) 135:18 both (30) 7:2;8:10;11:14;12:5, 5;19:1;22:23;26:8; 40:6;48:8;61:8;62:9; 68:24;71:15,18;73:13; 74:1;77:19;98:10; 99:10;102:13;115:4;
B				
back (46) 7:6,10;11:8,12,23; 12:15,20;14:7;16:8; 25:5,21;34:4,17;36:1; 38:4;39:6;43:7;50:6; 54:17;76:10;85:10,12; 89:2,20;91:22;93:11; 99:23;107:22;110:18; 113:4;114:17;127:25; 135:22,23;137:20; 142:1;154:10;159:8; 160:7;163:11,18,22; 164:10;176:20;184:6; 185:18				

117:23;131:25;133:9; 142:13;169:5;174:11; 175:18;176:6 bottom (2) 87:17;115:22 bought (11) 80:1,18,24;86:13,16, 17,18;92:4,5,10;94:16 bound (1) 33:24 boundaries (1) 65:13 Boy (1) 170:25 BR (2) 104:13,23 bracket (3) 82:13;96:2,3 Bray (6) 16:24;25:15;35:10; 125:16;183:4;186:3 break (23) 45:16,17,18;46:18; 54:6,15;62:12,15,23, 25;63:4,12;73:7,11,14; 76:19;91:23;129:15; 134:10;138:8;146:14; 159:18;169:3 breaking (3) 49:19;57:6,12 Breitbart (1) 104:22 Brent (1) 147:1 bridge (1) 145:2 brief (18) 5:9,18;17:22;38:6; 64:8;69:3;84:23;86:19; 87:6;98:14;100:24; 102:7;107:5;114:14; 118:7;120:23;155:22; 168:10 briefed (1) 62:3 briefly (5) 59:25;62:7;102:11; 120:23;143:20 briefs (3) 8:1,6;165:16 brilliant (1) 141:20 bring (21) 4:6;8:21;9:18;19:1; 27:23;36:17;38:12,17; 55:2,16,21;56:23; 69:21;127:22;130:6; 135:25;136:6,8,9; 143:9;146:18 bringing (1) 88:20 broad (1) 152:19	broad-brushed (1) 152:13 broader (1) 112:22 brothers (1) 42:22 brought (4) 20:24;55:19;136:3; 143:12 Brown (2) 28:19;33:21 Bruno (1) 133:10 brushing (1) 89:17 B's (2) 6:17;79:15 bucket (1) 106:3 bucks (2) 5:24;140:18 bulk (1) 141:10 bundle (3) 134:12;166:4;174:25 burden (4) 24:22;102:23;107:6; 117:12 bureaucracy (2) 180:2;181:19 burned (1) 42:5 business (3) 42:6;123:9;173:15 businesses (1) 42:24 busy (1) 13:16 Butte (1) 133:9 buy (8) 5:20,22;94:15;104:2, 16;107:11,13;108:21	98:23;144:3 California's (1) 146:1 Call (14) 4:3;13:7;14:18;26:1; 36:14;53:11;54:17; 88:13;101:1;112:25; 127:24;130:7;134:14, 25 called (3) 30:20;156:12;181:9 calls (1) 96:20 came (8) 20:21;49:20,21;60:3; 98:25;118:6;145:3; 179:11 can (125) 4:21;5:12,14;6:8,9; 8:9;10:6,12,13,15;13:3, 18;14:20;16:18;21:19; 24:12;27:23;29:4; 37:12;40:18;43:17; 44:12;45:18;47:2; 48:19;49:22,23,23; 52:2,7,7;56:9,10;57:17, 24,24;62:18;63:10; 64:9,10,13;67:9,22; 72:23;78:6;85:10,11; 89:15,21;92:11;93:25; 95:14,20;96:3;111:22; 112:1,25;113:7;117:3; 119:21;120:18;121:24; 122:15,15;123:1,2; 124:12;125:5;126:4; 127:13,15,20;129:17, 18;136:4,8;137:7,13, 18;139:7;140:13; 143:3;149:2;150:1,6,7; 154:25;155:13;156:24, 25;157:13,24;158:17, 18;159:21;160:3,24; 161:11;162:5,7,8; 163:1,1,19;165:3; 166:13,19;167:7; 168:12;169:4;171:11, 11;172:20;173:11; 175:5;176:22;182:21; 183:1,16,17,19,20; 184:4;185:24;187:4 cancel (1) 113:18 cap (2) 84:5,17 capacities (1) 23:2 capacity (1) 40:1 capital (11) 15:8,8;69:13;71:23, 24;83:7;96:21;103:15; 121:24;123:20;124:7 capitalization (6)	76:11;90:6,24;94:13; 151:24;152:15 care (4) 27:7;101:19;124:15; 175:25 careful (5) 142:3;145:20;174:4, 11;176:14 carefully (2) 44:4;166:24 Caribou-Palermo (1) 143:12 Carlson (1) 19:12 carry (2) 42:18;120:13 carves (1) 67:20 case (83) 5:23;7:20;29:24; 39:10;40:11;44:14; 46:4;47:13;49:12,12, 13,25;54:18;55:17; 58:9;59:5;60:2,7; 62:11;64:4;66:11; 81:16,17;83:8,11; 87:13;92:5,20;98:11; 99:25;100:13;101:20; 104:11,18;108:25; 109:2,17;110:9,20,22, 25;112:14,16;131:25; 132:1,3,14,15;133:1,3; 134:20,21;135:12; 138:11;141:8,10,12; 142:5,18;145:2,5; 146:25;147:6;149:5, 11,15;152:10;162:25; 163:24;165:17;166:2; 169:9,14,18;170:11; 174:15;175:10;177:18; 180:1,3;181:18,22; 185:1 cases (22) 60:6,14;70:25;82:2; 83:6;105:8;110:6; 116:13;150:15;162:13, 17,18,22;163:5,10; 164:7;165:13,16,16; 166:2,10;186:22 cash (22) 40:21;41:2,14;49:8; 75:6,8;106:3;108:20; 113:9;134:13;135:9, 11,13,16,19;137:25; 138:3;147:9;165:24; 166:4;174:23,23 categorically (1) 65:2 categories (1) 66:1 category (2) 50:18,20 cats (1)	13:21 caught (1) 181:11 causation (1) 132:25 cause (1) 132:25 caused (3) 129:11;136:18; 137:23 causes (3) 23:12,14;133:24 causing (2) 134:1,1 cent (1) 169:21 certain (11) 20:18;30:23;61:10, 15,16;62:10,10;65:20; 68:12;147:15;162:19 certainly (22) 53:5,22;59:17;63:11, 15;69:7;74:12;86:3; 94:11,22,24;95:18; 96:7;101:24;102:4; 125:8,10;127:7,11; 146:11;156:21;167:21 certainty (1) 44:16 certified (2) 61:23;112:11 certify (1) 188:3 cetera (2) 52:15,15 chance (8) 13:7;15:24;34:6; 38:22;39:2;47:15; 118:6;127:7 chances (1) 184:5 change (8) 15:7;18:3;27:17; 35:4,5;78:4,24;82:13 changed (1) 75:22 changes (6) 5:19;15:5;46:14; 69:23;84:10;112:2 changing (1) 142:25 channeled (2) 29:14;31:7 Chapter (5) 48:2;60:14;64:2; 142:18;143:5 chart (9) 10:20;11:10;20:14; 87:20;88:17;89:2,3; 91:25;94:5 charts (1) 88:18 cheap (1)
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40:10 check (1) 54:12 Cheever (1) 25:8 chicken (1) 28:11 chipped (5) 88:9,9,9,10,14 choice (11) 84:20;86:8;87:7,15; 95:1,2;99:4,5;124:10; 145:17;160:6 choices (1) 46:2 choir (1) 168:23 C-hook (1) 143:11 choose (3) 60:4;104:8;180:13 chooses (1) 137:19 choosing (1) 115:5 chose (1) 111:8 chosen (2) 66:15,23 chunk (1) 146:2 circles (1) 52:10 Circuit (10) 65:3,13;67:14;69:4; 70:25;86:24,24;87:10; 92:20;113:5 circular (1) 161:8 circumstance (1) 83:12 circumstances (7) 78:2;81:3;82:1,3; 94:17;101:11;185:21 cite (1) 168:15 cites (1) 32:1 citizens (1) 46:25 City (1) 22:24 claim (114) 6:10,13,15,15,23; 7:1;8:1,12;30:5;49:8; 58:23,25;59:1,1,3,8,8, 11,16;60:18,25;61:6; 65:24,25;66:8,20,22; 68:20,23,23;69:5,21, 24,24;70:7,13,22;71:3, 4,16,17,17,20,21,22,23, 24;72:3,4,11;73:2,3,24; 74:1,7;76:6,9,13,14,19,	20,22;77:2,3,4,10,11, 12,20;79:14,15,19,21; 80:22;81:1,5,7;82:12, 13,16,17,18;84:18; 86:6;87:24;95:12; 96:25;97:1,11,13,19; 98:3,16,19,20;99:20; 101:7;106:11;107:24, 25;108:5,6,11;111:3; 113:15,23,24;114:1,4, 10;131:11;169:14,18, 20 claimant (6) 29:13;30:2;31:2; 104:20;108:9;152:1 claimants (12) 8:9,15;41:13;45:4; 95:15;99:6;112:8; 116:14,15;131:2,7; 147:9 claims (118) 7:3;9:8;15:21;21:7, 12;23:6,12;26:3;27:3, 8,11;28:20;29:22,23; 31:7;35:7;46:20;60:24; 61:4,4,5,8,14,18,21; 64:17;65:16,20;66:11, 13,24;67:3,21,23;68:3, 4,6,9,10,16,17;69:9,10, 12,14,18,20;70:5,17; 71:9,10,11,12,13,14; 72:13,13,15;73:20,22; 74:3,15,23;75:3,3; 76:18;80:13;81:16,17, 19;82:22;92:1,2,3; 93:3,6,9;96:11;97:4; 101:20;103:13,14; 105:23;106:4,9; 107:14;110:9;111:7; 112:16;113:5,9; 114:16;116:17,22; 117:1,1,125:19; 133:11,22,24;135:4; 138:3,9,15,19,21,22, 23;139:1,11;141:7,11; 150:12;152:22;171:5; 174:8,24;177:9 clarification (1) 14:10 clarify (4) 30:4;41:5;152:16; 156:25 class (85) 5:21;59:6,12,13,16, 18;60:18,24;61:7,9,22, 22;62:1;64:23,23,24; 65:15;68:3,8,15,16,16; 74:14,19,19,23;75:2,2; 78:19;80:7,17,18; 82:13;84:10,18,23,25; 86:14,16;88:10,21,23; 89:6;90:12,15,18,24; 91:1,3,3,13,21;92:14;	94:14,16;95:12,12; 96:25;97:1;101:17; 102:9,11,15,21;103:1, 2,4;105:1,8;106:24; 107:19,20,21;111:9; 112:11,15;113:8,12,15; 114:18;115:20;116:16; 117:2,6;125:20 class-action (1) 143:25 classes (1) 106:8 classification (2) 64:16;68:2 classifies (1) 68:6 classifying (1) 70:5 clause (4) 153:3;170:5;172:23; 173:1 Clean (1) 22:25 clear (28) 23:8,10,18;24:2; 39:24;48:7,17,18; 51:21,22,52:5;53:21; 59:25;63:21,23,23; 65:3,4,5,6,12;108:17; 116:13,14;123:7; 126:9;135:3;151:4 clearer (1) 65:9 clearing (1) 58:21 clearly (3) 41:21;57:10;89:11 CLERK (19) 4:4;19:5;36:5,7,19, 25;55:3;56:1,16;57:7, 9,12;62:16,19;63:1; 73:15;179:13,14,18 client (6) 4:11;20:17;21:3; 22:25;24:20;80:10 clients (5) 22:13;37:17;39:25; 40:8;112:20 client's (1) 22:11 close (14) 8:17;14:1;65:11; 69:4;87:23;111:10; 115:4;123:9;129:7,8; 133:15;134:14,25; 143:22 closed (1) 89:7 closely (1) 141:1 closer (1) 37:12 closers (1)	183:3 closing (14) 35:18;40:7;55:13; 89:5,24;90:22;102:7; 109:8;120:4,23; 127:18;179:1;183:11; 186:6 closings (1) 49:2 Code (4) 21:7;52:22;74:23; 131:14 cog (1) 78:4 cognizant (1) 112:18 coincidence (1) 6:5 collapse (2) 84:6,16 collapses (1) 71:20 collateral (1) 135:19 colleague (3) 14:12;113:17;115:11 colleagues (3) 5:8;12:25;187:3 collectively (1) 110:13 columns (1) 97:23 coming (12) 66:18;75:14;96:3,4; 117:11;138:18;139:16; 143:14;144:16;148:5; 155:25;164:5 commenting (1) 129:7 comments (11) 23:13;34:18;41:9; 43:22;54:3;115:16; 120:21;129:7;172:17; 181:15;183:9 commercial (1) 153:22 commit (1) 158:17 commitment (3) 123:8;144:16;153:14 commitments (1) 153:20 committed (2) 38:14;144:25 committee (7) 26:2;119:4;128:5; 131:2;141:9;165:6; 173:11 committees (1) 175:18 committee's (1) 27:16 common (14)	59:14;68:5,7,14; 69:22;74:15,24;84:19; 103:2,7;105:24,24; 165:20;177:14 common-sense (1) 153:22 communication (1) 95:10 community (2) 42:7;48:4 companies (2) 45:6;107:11 company (14) 6:6,12;47:24;49:20; 68:11;75:14;104:17, 18;126:13;145:14,16; 146:6;153:16;162:14 company's (1) 150:2 comparable (4) 162:11,12,13,19 comparative (1) 51:6 compared (1) 115:11 compensate (2) 42:5;108:15 compensation (1) 42:8 competent (1) 114:11 competing (1) 60:8 complaint (7) 62:4;68:18,22;78:11; 90:16;97:9;113:13 complaints (1) 179:11 complete (1) 40:24 completely (5) 68:19;71:21;76:12; 92:12;145:16 complex (1) 31:14 compliance (3) 12:23;122:6,23 compliant (2) 49:23;157:9 complicated (2) 76:3;80:11 complied (1) 174:12 complies (1) 131:7 comply (1) 166:9 comprised (1) 141:9 compromise (1) 177:17 conceded (1) 23:10
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concept (4) 71:3;160:21;172:5, 15 concepts (2) 171:10;172:15 conceptually (1) 114:19 concern (4) 16:16;63:19;70:5; 74:5 concerned (3) 16:14;21:9;182:13 concerns (10) 13:4,12;14:6;20:4; 43:10;44:3,22;45:1; 79:1;96:14 concert (1) 39:20 conclude (5) 17:8;54:4;129:16; 179:25;183:2 concluded (2) 127:19;187:8 concludes (2) 50:10;178:6 conclusion (2) 102:6;179:19 conclusory (2) 106:23;107:3 concur (1) 165:11 condition (3) 151:19;154:6,22 conditions (1) 151:21 conduct (2) 31:12;67:11 conducted (1) 137:17 confer (1) 95:14 conference (1) 136:7 confidential (3) 45:13,22;50:3 confirm (13) 41:21;47:18;51:17; 52:2;91:18;121:10; 137:2;148:14;156:19; 164:15;177:1;183:16, 19 confirmation (59) 15:14;23:9;40:4; 43:11;44:15;45:3,10, 12,25;46:4;47:4;48:6; 62:7;63:24;64:8;65:5; 67:15,18;70:11;94:20, 21,25;102:5;107:4; 110:20;112:1;113:7; 118:7;122:7,16;137:2, 8;139:22;140:6,21; 141:22;145:11;149:1, 1;151:22;153:5;154:3;	155:22;156:9;157:15; 158:19;160:4,18; 164:25;165:15;166:7, 12;171:4;175:5;177:1, 12,13;184:13;185:25 confirmed (14) 40:21;42:15;43:7; 46:5,7;49:24;51:20; 64:5,10,14;122:9; 125:25;144:10;183:10 confirming (6) 41:17;42:17;64:1; 123:25;146:7;185:8 conflagration (1) 133:10 conflating (1) 82:16 confuse (1) 42:1 confusion (2) 63:13;122:5 congressional (1) 105:15 connect (1) 85:8 connection (11) 36:12;54:23;57:9,13; 64:21;109:12;110:14; 115:1;126:13;166:2,3 consensually (2) 53:18;158:18 consent (21) 139:21;147:23; 148:11,25;152:14,18, 19;153:5,23;154:1,4, 22;155:12,14;157:20, 20,25;160:20;164:3; 166:17;167:9 consented (1) 148:12 consenting (1) 139:21 consents (1) 148:15 consequence (2) 21:3;167:13 consequences (1) 47:14 conservative (2) 143:24;144:6 consider (2) 13:1;137:16 considerably (1) 138:1 consideration (3) 31:16;104:6;138:1 considered (2) 149:12,13 Consigning (1) 43:7 consistent (5) 6:13;43:13;151:16; 170:7;172:16	consolidated (2) 60:7;69:15 constituencies (1) 110:16 constituency (4) 59:5;110:25;111:2; 112:22 constitute (1) 152:22 construct (2) 132:9;174:14 constructive (1) 137:16 consultant (2) 169:13,19 consultants (4) 138:5,7;139:4,15 contacted (1) 4:25 contain (2) 30:14;165:12 contained (1) 66:7 contains (1) 41:16 contemplates (1) 70:16 content (1) 139:22 contest (1) 31:2 context (10) 60:14;61:9;100:4,7; 102:8,14;106:6;109:3; 132:9;154:20 contingencies (1) 101:25 contingency (4) 122:10,11,12,12 continually (1) 143:10 continue (3) 110:7;158:11;181:24 continued (2) 90:22;181:9 continuing (2) 38:7;83:15 continuum (1) 88:19 contract (7) 15:18;16:13,25; 119:24;134:4,9;154:5 contractor (1) 138:23 contractors (3) 133:25;134:7,12 contracts (4) 10:24;15:13;24:17; 139:11 contractual (2) 100:15;177:14 contribution (2) 16:15,24	control (4) 49:9;53:9;130:5; 141:13 controlling (1) 71:8 controversial (2) 40:15;41:10 controversy (3) 21:3;22:21;172:6 convenience (2) 54:16;128:15 convenient (1) 13:25 conversation (1) 44:17 conversion (2) 117:5;125:2 convert (2) 86:6;113:8 converting (1) 76:6 convinced (1) 143:14 coordinate (1) 181:1 coordinating (1) 11:6 co-payees (1) 58:16 copy (1) 32:17 coronavirus (1) 145:24 corporate (3) 71:1,4;99:6 Corporation (3) 11:8;68:13,14 corporations (1) 71:2 corpus (2) 138:19;139:2 correcting (1) 107:17 correctly (1) 174:22 counsel (23) 8:22;9:10;11:13; 19:3;22:13;24:5;25:12; 27:22;28:19;33:21; 34:24;37:6;40:1,59:3; 85:7;112:13,17; 143:17;144:12;183:4; 186:3,4,12 count (2) 84:16;99:21 counterpoints (1) 29:9 county (1) 58:18 couple (12) 58:22;78:10;79:10; 95:8;98:21;104:12; 119:2;120:21;153:21;	173:18;180:8;182:19 course (10) 6:16;21:9;23:2; 55:18;60:2;78:19;82:3; 91:12;120:20;138:25 Court (418) 4:3,4,8,11,23;5:7; 7:11;9:13,14,25;10:2,5, 9,14,16;11:12,16,21; 12:5,9,12,16;13:5,10, 13,15,25;14:2,11,15, 17,22,25;15:3,23;16:4, 7,23;17:4,6,14,18,20; 18:2,6,10,15,17,20,22; 19:1,8,10,14,20,22,25; 20:8,20,22;21:20;22:8; 23:6,20;24:3,13,18,21; 25:24;26:11,12,14,16, 21;27:5,14,15,21;28:2, 5,6,8,17;29:1,7,11; 30:4,9,11;31:9,21,23, 25;32:7,15,17,20,25; 33:3,7,12;34:3,16,23; 35:6,9,13,16,21,25; 36:4,6,9,16,21;37:3,7, 11,15,18,25;38:18; 39:4,17,20;40:16,18, 20,23;41:1,3,9,18,20; 42:9,16,25;43:2,8,9,10, 15,16,21;44:5,19; 45:18,23;48:9,10; 49:15;50:9,13;51:1,3,7, 13;52:4,10,22,25;53:8, 16;54:10;55:2,10,16, 21,24;56:4,7,9,13,18, 21;57:1,5,8,10,13;58:1; 59:19,23;60:13;62:15, 18,20,22,23;63:4;69:1, 3,16;70:1,12,21,23; 72:1,9,16,21;73:6,11, 14;76:15,18;77:18; 78:23;79:9;80:8;81:10; 82:5,8,11,14;84:1; 85:17,22;87:11;89:1,9, 15,22;90:11;91:22; 92:19,23,23;93:18; 95:6,8;96:8;97:20; 98:4,7,21,25;99:3,9,23; 100:11;101:16;104:13, 18,23;105:4,8,11,15; 106:1,10,23;107:22; 108:8,24;109:5,10,15, 22;111:1,11;112:12,13, 25;113:17;114:2,6,11, 13;115:7,10;116:19; 117:15,17,19,22,25; 118:3,9,15,19,21; 119:13;120:1,8,25; 121:19,22;122:2,12,18, 25;123:3,7,13,15,18; 124:2,8,21;125:5,9,11, 15;126:4,9,12,15,18, 21,24;127:4,20;128:6,
---	---	--	---	--

10,16,19,22;129:10,15, 24;130:6,12,14,19,23, 25;131:10,16,18;136:1, 9;137:7,14;141:16; 146:15,17,19;147:21; 148:2,8,16;154:7,18; 155:1,3,17,24;156:3,7, 10,25;157:13;158:2,8, 13,22;159:5,13,17,22; 160:10;161:2,7,13,20, 25;162:2,8;163:1,4,7, 25;164:6,19;165:3; 166:21;168:8;170:7; 171:10,14,17,19;172:3, 11,14,19;173:4,17,19, 22;175:8,14,23;176:7, 21;177:19,21,23;178:4, 14,20;179:4;180:1,4,8; 182:2,24;183:18,21,23; 184:19,22;185:20,23; 186:19;187:2,7 court-appointed (1) 58:10 court-approved (1) 43:5 courteous (1) 109:11 courtroom (4) 65:1;83:21;181:10, 13 courts (2) 23:16;115:7 Court's (9) 39:18,21;41:17;48:9; 55:15;62:8;110:3; 131:25;148:13 cover (2) 97:24;134:11 coverage (12) 96:23;97:2,3,4,6,8, 16,17;99:15,17;101:9; 139:5 covered (1) 20:4 craft (1) 43:12 cram (2) 152:9;160:3 cramdown (4) 102:22,23;106:18; 116:18 cram-down (1) 152:10 create (1) 67:1 created (2) 58:22;116:4 credence (1) 102:19 credit (1) 8:1 creditor (1) 102:16	creditors (3) 45:7;102:18;107:10 creditor's (1) 119:4 critical (5) 40:8;47:12;53:22; 105:21;184:4 cross-reference (1) 168:11 crystal (1) 108:17 culpable (1) 6:8 cure (2) 15:15,18 curious (1) 116:1 currency (2) 108:17,19 current (14) 15:13;27:3;61:10,15; 63:20;66:16;72:6,7,10, 11;103:5;121:25; 133:19,20 currently (1) 55:17 cutting (2) 62:17;73:15 D D&O (3) 96:23;97:2;99:13 dads (1) 42:22 daily (1) 143:17 damage (28) 7:3,21;30:5;64:16; 68:4,6;72:13;73:2,21; 76:6;77:20,21,22,25; 78:1;80:10;81:14;82:9, 19;90:7;92:12;93:3; 110:9;112:16;114:4; 116:14,17;133:12 damages (15) 6:10;77:13,16;79:18; 80:14;81:2;84:18; 86:25;87:11,14;91:7; 92:13,15,15,18 dangerous (1) 94:19 data (2) 179:17;181:9 database (1) 44:9 date (79) 5:21;6:14;7:10;41:7; 44:9;46:10,11,11;47:6; 49:16;51:19;52:1,17, 18;53:9;58:25;59:9; 61:1;75:16,20,20; 76:12,13,19;77:1;78:3,	6,6,24;79:2,11,24,25; 81:14,20;83:16;84:8, 16,20,21,22;86:8,9,22; 87:16;90:6,7,13,14,21, 21,23;94:6,8;103:17, 24;111:2,5;112:5; 114:15,17;115:3,3,16, 18;116:3,3,6,6;122:14, 15;123:5,6;141:4; 148:13;158:21;166:14; 176:3;188:15 dates (9) 46:8;78:25;79:23; 80:1;88:6;94:5,7,8; 115:5 David (1) 28:15 Davila (3) 58:12;60:8;62:6 day (24) 7:6;28:16,17;77:19, 23;81:6;87:23;89:4,6, 25;90:23;95:3,4;102:2; 110:11;114:17;124:5; 129:16;159:6;163:22; 175:15;181:8;184:2; 186:13 days (12) 5:24;51:16;80:16,19, 20;85:24;86:16;92:10; 120:22;137:7;155:6; 164:5 DCD (1) 86:23 dead (2) 67:3;125:21 deadline (3) 51:22;64:2;122:3 deadlines (1) 44:20 deal (14) 28:12;31:23;34:19; 58:3,3;68:9;92:24; 113:7;171:22,24; 180:19;182:15;186:8, 10 dealing (4) 33:13;61:4;118:10; 166:4 deals (3) 10:24;83:12;183:13 dealt (4) 98:13;109:3;173:17; 185:13 death (3) 42:6;133:11;161:21 debt (7) 103:12;121:13; 123:20;139:23;151:24; 152:15;153:6 debtor (45) 8:3,14;42:17;47:5; 65:20;66:2,3;70:17,18,	20;74:9;83:13;93:21; 97:7,9,10,13,19,22,24; 98:1,2,3,17,20;99:9,15, 21,22,24,24;100:18; 101:7,9,11,23;118:5; 142:17;154:6;162:5,7; 167:1;169:24,24;172:7 debtors (76) 8:7,8;10:20;11:5,9, 25;12:15;15:7;20:13; 21:5;22:17;39:2,61:7, 8,11,15;64:8;65:24; 66:10,14,15,19,21,21; 67:8,11,24;68:24,25; 69:15,19;74:8;76:7; 94:23;95:18;96:22,23; 97:16;98:12;99:13; 101:5;102:12,23; 107:4,12;110:7,10,12, 14,17;111:25;121:15; 129:7;132:16;133:6, 14,18,23;134:1,5,23; 136:1,2;141:15; 142:16;152:23;155:7; 160:15;161:15;165:23; 168:25;169:10,19; 174:1,4,10 debtors' (13) 61:24;129:8;131:5; 132:23;133:9;151:11, 17,19;152:18;161:12; 165:15;170:2;176:16 debtor's (6) 100:21;107:6; 110:15;111:3;115:1; 117:13 December (4) 46:11,17;170:4; 174:3 decide (11) 12:11;17:11;18:6; 20:11;33:5,7;34:8; 158:5;166:14;180:23; 181:1 deciding (1) 17:11 decision (24) 34:8,12;45:10,25; 62:5;69:4,8;70:24; 71:7,7;80:1;95:12; 100:13;124:10;125:6; 144:3;156:14,15; 158:19;159:2;180:22; 182:11,17;183:10 decisions (4) 33:17;44:12;144:1; 184:9 declaration (5) 104:4;147:1;162:10; 168:15,16 declarations (1) 118:7 declaratory (1)	20:25 deductible (1) 101:7 deducting (1) 98:19 deducts (2) 76:9;88:5 deemed (2) 149:14;177:13 deep (1) 47:7 defendant (2) 97:22;100:2 defendants (8) 65:21;66:12,25; 97:21,21;98:10;100:1; 113:6 defendant's (1) 87:2 defer (2) 53:20;158:24 deference (1) 39:21 deferral (1) 95:22 deferring (3) 39:19;95:2,4 define (2) 48:16;52:23 defined (2) 96:21;152:2 definitely (1) 5:8 definition (5) 52:21;72:12;73:2,3, 21 definitions (1) 72:22 definitive (2) 151:23;152:14 defrauded (7) 6:23;8:13;77:6,7,19; 78:8,8 Del (9) 69:4,8,9,12,16; 70:24;71:2,19;93:4 Delaware (1) 104:13 delay (5) 4:9;9:3;118:24; 146:9;181:22 delayed (1) 45:5 delays (2) 42:20;120:3 delegitimize (1) 117:4 delete (2) 17:24,25 deliberate (1) 185:17 delve (1) 63:21
--	--	---	---	--

demand (1) 34:10	105:12,13;165:19	discretion (4) 101:2;132:3;150:23; 179:10	6:8	21:23;15,17;183:13,16, 19
demonstrate (1) 162:14	different (38) 5:20;7:21;29:25; 30:12;32:5;38:20;	discriminate (3) 103:4;106:24;107:5	distribute (3) 8:15;75:7;106:3	domain's (1) 185:3
demonstrative (3) 62:9;63:9;87:18	69:11;75:23;76:12; 78:25;80:9,12,13;	discriminates (1) 102:11	distribution (13) 29:16;45:4;57:22; 64:17,22;73:23;74:13;	domino (1) 138:25
demonstratives (2) 87:17;90:1	81:11,11,12,12,15; 82:1,4,9,22;85:9;94:5,	discrimination (1) 106:6	76:22;79:8;80:6;81:15; 96:16,25	Donaldson (1) 118:22
denial (1) 60:15	5,7;99:2;100:20; 102:13;108:8;110:10;	discriminatory (1) 116:9	District (10) 18:13;19:13;20:24;	Donato (16) 49:14,16,18;133:4,6,
Dennis (1) 4:5	114:19,20;116:3; 142:23;162:21;173:16;	discuss (4) 78:12;79:7;95:9; 119:21	58:11;60:13;72:1; 104:13;112:12;162:24, 24	7;135:2;174:17;175:1, 6,9,16,19;176:1,9,10
denominated (2) 75:3,4	180:12	discussed (10) 16:18;64:6;96:17; 98:15;115:24;116:23;	district's (1) 21:6	done (24) 26:25;41:19;48:1;
denominator (9) 7:17;83:2,3;93:10, 13;96:15;107:2,18; 113:20	differently (2) 95:9;162:21	142:10;157:11;175:17; 176:6	divide (2) 84:5;90:7	50:5;52:6,7,13,14;53:7, 10,12,15,17;114:14;
depending (1) 163:13	difficult (3) 75:5;76:3;83:20	discussing (4) 45:17,21;119:3; 120:11	divides (1) 76:11	116:21;122:6;127:13; 147:4;149:2;150:14;
describe (1) 23:16	difficulties (2) 63:15;73:18	discussion (12) 11:13;17:20;18:1; 57:22;64:21;76:11;	dividing (3) 84:7,11;91:6	156:17;159:9;185:16; 186:15
described (3) 85:24;116:9;126:10	diligence (2) 179:13;181:24	79:8;112:2;116:23; 125:2;154:8;158:6	docket (17) 15:16;26:17,18;27:5, 18;62:11;63:6,9,17,18,	door (2) 69:4;113:4
design (1) 41:15	dilute (3) 171:8,11,25	discussions (2) 44:10;120:14	22;147:22;153:15; 155:22;168:9;180:20; 187:3	dot (1) 98:17
designed (1) 115:24	diluted (1) 84:9	disdain (1) 110:12	document (15) 15:25;18:1;32:3,7; 50:17;63:6;140:14,15;	double (4) 28:9;48:18;70:6; 139:7
despite (1) 112:10	dilutes (1) 171:14	disenfranchise (1) 59:6	156:12;161:15;167:10; 168:12,15,17;170:21	double-check (1) 17:9
destiny (1) 141:13	dilution (2) 103:10,21	disenfranchised (1) 61:2	documentary (1) 138:6	doubt (3) 6:7;142:10;144:5
detail (4) 61:20;64:7;87:5; 125:23	direct (3) 65:4;162:5,7	dismiss (4) 61:23;62:2,5;175:10	documentation (2) 17:3;143:25	dovetails (1) 57:22
details (1) 52:8	directed (1) 114:22	disparate (2) 92:12;163:11	documents (18) 5:6;36:13;38:9,23; 139:23;148:10;151:23;	down (18) 6:16,19;16:13;25:18;
determinable (1) 108:23	direction (2) 76:5;106:5	dispose (3) 48:21;50:1;66:6	152:15;154:10;157:8, 18,18;161:11,12; 167:11,24;169:6; 179:15	67:9,22;70:8;91:20; 95:24;144:13,14,14; 152:9;157:1;160:3; 168:18;182:11;184:23
determination (8) 70:8;73:24;74:1; 77:14;79:14;80:23; 114:12;118:8	directly (3) 59:4;66:2;83:12	disposition (1) 46:19	dollar (12) 6:20,23;7:3;30:5; 92:12;93:3;102:15; 108:10;133:21;137:25; 138:19;177:8	downplay (1) 59:7
determinations (1) 80:9	director (2) 97:10,12	disproportionate (1) 106:9	dollars (43) 5:24;6:2,2,3,10,11, 13,17,19,21;31:19;	dozens (1) 132:24
determine (4) 71:25;82:16,17; 114:8	directors (4) 6:9;61:11;66:13; 143:21	dispute (9) 15:16;74:16;98:22; 99:13,15;138:11; 149:15;159:11,15	59:2;72:2,4;75:3,9,10, 10;76:24;80:12;84:25; 86:7;88:13;90:23; 97:11,21;110:13; 112:20;132:14,17; 133:15,22;134:8,13; 135:20;138:2,3,14; 139:6;163:13,13; 169:21;177:5	draconian (2) 45:3;47:17
determined (6) 79:15;81:20,21;92:1; 94:20;96:5	disadvantage (1) 41:24	disputed (2) 155:2;163:9	domain (17) 18:14;20:5,10,14,19, 24;21:6,22,25;22:3,12,	draft (1) 11:4
determines (2) 72:2;101:5	disagree (3) 168:20,20,21	disputes (3) 65:1;110:15;135:19		drafting (2) 67:6;182:17
determining (2) 69:14;81:2	disappeared (1) 116:6	disrupting (1) 47:3		drawing (1) 100:8
device (1) 19:18	discharge (6) 15:6;21:2,8,11,14; 169:10	dissertation (1) 107:9		drew (1) 138:17
devices (1) 19:19	disclosed (2) 41:23;142:7	disservice (2) 43:9;159:10		drive (2) 91:20;135:4
differ (1) 80:20	disclosure (4) 67:5,7;142:2;149:11	distinction (5) 99:17;101:4;105:21; 106:5;165:19		drop (5) 78:13;88:11;92:6; 94:7;130:11
difference (6) 77:15;81:24;87:1;	disclosures (2) 90:17;142:4	distinguished (1)		dropped (5) 6:16;7:7;87:22; 88:19,20
	discount (1) 44:24			dropping (4) 45:18;79:4,4,4
	discovery (1) 49:15			
	discrete (1) 116:25			

drops (7) 78:19;86:20;88:5; 92:4,8;113:13;115:19	economically (1) 103:22	104:15	22:25;104:22; 145:22;146:3	equitable (4) 91:3,16,17;102:24
Ds (5) 61:16;66:17;97:3,5; 101:14	economy (3) 145:23,23;146:1	eliminated (1) 21:18	enforce (2) 141:21;166:8	equity (60) 5:17;8:16,16;49:7; 59:4,19;70:13,14;71:3, 4;72:9,24;75:2,7,8,9, 11,17,24,25;76:8; 77:21;78:14;83:10,13; 84:14;102:12;103:2,7, 10,11,25;104:8;105:6, 17,17,18,22;106:3,4; 107:25;108:2,7,7; 121:13,18,19;123:19; 126:24;136:1;139:23; 144:11;147:17;148:10; 151:24;152:15;153:6; 158:1;160:15;171:15
Dubbs (5) 55:16,23;56:1,3,11	Edison (1) 42:10	else (19) 4:25;8:23;9:1;30:9; 35:9;51:15;57:2;77:4; 89:16;91:12;127:15, 19;131:21;164:3; 166:9;171:14;172:25; 176:16;181:12	enforcement (1) 30:25	Equity's (1) 75:25
Dubbs' (1) 112:12	education (1) 154:19	else's (1) 22:3	enforcing (2) 165:1;178:10	
D-U-B-B-S (1) 56:2	Edward (1) 26:23	elsewhere (1) 66:10	engage (2) 110:17;112:22	equivalent (7) 8:16;108:6,21; 135:15,16;140:17,21
due (4) 111:3;179:12;181:8, 24	effect (6) 10:24;21:2;27:16; 67:1;138:25;140:24	email (2) 18:15;138:7	engineered (3) 86:10;91:20;117:6	error (1) 84:9
duly (1) 33:9	effective (19) 40:21;51:19,25;52:1, 17,18;75:20,20; 121:24;122:14,15; 123:23;148:14,18; 156:20;158:21;164:17; 176:3,23	emailed (2) 14:12;22:4	enhanced (3) 142:19,20,20	escapes (1) 92:21
Dumas (1) 134:15	effectiveness (1) 151:21	emails (2) 22:9;35:3	enjoin (1) 65:18	eScribers (1) 188:11
dump (2) 150:20,20	efficient (3) 13:25;94:10;127:9	emerge (2) 47:15,19	enjoined (1) 66:1	especially (3) 145:8;170:14;182:18
dunk (1) 152:9	effort (2) 42:2;110:16	emergence (2) 53:3,4	enjoyed (1) 134:5	essentially (19) 35:18;82:2;84:21; 87:4;96:25;103:24; 104:24;110:18;122:9; 128:24;131:14;139:13; 149:24;150:5,7; 151:10,15;165:4;174:9
duplicate (1) 87:18	efforts (4) 42:1;110:15;112:24; 183:14	emergent (2) 47:5,9	enough (10) 6:1;21:10;28:10; 32:17;42:11;107:6; 129:20;135:11;181:8; 185:13	establish (3) 6:10;44:16;137:1
during (21) 5:15;49:2;51:11; 55:18;59:12,13;60:1; 68:8,15;80:17;84:25; 86:13,16;90:18;91:12; 92:14;94:16;113:14; 115:20;142:17;167:16	eight (9) 40:16;41:11;78:25, 25;86:20;88:20;92:4; 132:17;133:15	emerging (1) 47:16	ensure (1) 48:11	established (4) 133:5;162:20; 170:22;179:12
duties (4) 60:20,23;112:15; 150:19	eighty (2) 131:9;171:25	eminent (18) 18:14;20:5,10,14,19, 24;21:6,22,25;22:3,12, 21;23:15,17;183:13,16, 19;185:3	enter (5) 122:7;123:25; 153:16;161:17;175:12	estate (3) 8:4;66:3;169:20
duty (1) 17:10	eighty-eight (1) 137:24	emotional (1) 168:22	entered (4) 122:16,18;124:1; 174:17	estimate (2) 133:3;175:1
E	either (17) 11:24;23:8;29:5; 38:16;43:11;53:12; 68:1;79:2;83:5;102:20; 105:8;114:10;126:21; 157:17;158:18;174:6; 186:12	emotions (1) 167:21	entire (1) 88:3	estimated (1) 174:9
earlier (10) 11:4;60:3;66:11; 73:24;112:10;114:25; 115:2;123:10;125:17; 172:22	elaborate (1) 126:5	Employees (5) 58:8,14,18,20; 143:19	entirely (3) 60:4;68:16;92:17	estimates (1) 129:18
early (3) 24:25;54:16;113:19	elaborating (1) 126:1	empower (1) 47:3	entities (4) 29:14;30:14,21;31:4	estimation (11) 49:14;132:23;133:8; 135:1;137:10;173:25; 174:16,20;175:4,12; 176:23
earned (1) 31:19	election (2) 111:12,13	empowering (1) 44:12	entitled (4) 42:24;111:8;131:6; 167:5	et (3) 29:19;52:15,15
earnings (3) 121:15;126:16,16	electric (2) 20:18;68:10	encompasses (2) 115:19,19	entitlement (1) 131:11	Etkin (44) 5:7,11,14;9:1;35:16, 23;54:17,20;55:2,3,4,6, 7,11,23;56:3,12,19,25; 57:3,6,12;102:6;109:8, 19,21,24;111:14;
easily (2) 111:16;159:16	elegant (2) 74:5;113:16	end (31) 55:14;57:11;65:9; 76:10;79:7;81:5;87:12; 88:10,21;89:6,25; 90:11,15,24,25;92:11, 13;94:13;95:15;102:2; 113:12;118:23;120:23; 124:1;135:12;150:3; 154:13;156:9;169:20; 181:11;185:15	entity (8) 29:19;30:18;31:7; 32:13;34:1;71:1,4; 97:17	
easy (8) 103:1;113:3;115:12; 169:7;172:11,12; 183:17,20	element (2) 31:16;104:7	endeavor (1) 123:22	entry (3) 121:21;122:21; 158:19	
echo (1) 43:25	eleven (2) 94:5;135:20	ended (3) 88:23;133:3;169:24	equal (10) 105:1;131:5;136:24; 137:5;145:9;147:1; 154:23;161:8;164:2; 165:1	
economic (3) 43:6;59:5;83:19	eligibility (1) 104:25	end-run (1) 67:11	equally (4) 140:5;147:9;148:23; 162:16	
	eligible (1)	Energy (4)	equals (1) 84:18	
			equation (1) 7:4	

113:22;114:5,7,20; 115:10,13;116:21; 117:18,21;118:1,4,13, 16,20;120:19;171:2 Etkin's (1) 128:14 even (29) 8:19;20:3;29:3; 33:14;51:18;67:19; 69:3;72:21;77:5;92:20; 97:18;101:5;104:15; 109:1;113:2;116:3; 130:8;142:5;156:19; 157:20;158:4;164:5; 166:1;168:20;169:23; 176:8;184:2,2;186:19 evening (5) 5:15;89:8;159:23; 185:22;187:4 event (4) 4:20;29:12;115:14; 143:24 events (4) 80:13;85:25;142:25; 185:16 eventually (2) 93:16;134:3 everybody (11) 16:10;25:16;28:9; 30:9;46:5;50:6;80:20; 164:3;166:9;171:14; 181:12 everyone (8) 85:12;94:15;95:22; 149:7;170:22;185:23, 24;186:24 everyone's (3) 54:15;140:4;185:1 evidence (9) 102:17;117:7; 132:20;134:22;135:3; 138:6;146:25;161:1; 163:9 evidentiary (1) 118:10 exact (5) 45:15;73:1;79:18; 122:10;124:22 exactly (4) 30:19;70:23,24; 184:16 examiner (10) 137:15;179:9,10,23; 180:3,24,25;181:18; 182:18,20 example (9) 44:23;78:2;82:20; 97:15;104:22;125:17; 150:3;153:14;184:3 examples (1) 104:12 excellent (1) 145:17	except (2) 30:22;54:12 exception (2) 30:22;48:13 excerpts (1) 147:20 excess (1) 149:13 Exchange (2) 61:7;134:17 exclude (1) 23:18 excluded (1) 104:20 excluding (1) 105:19 exclusivity (4) 49:19;133:14; 134:15;144:15 exculpate (1) 170:3 exculpation (5) 170:2,4,12,20,22 excuse (11) 32:4;36:5;56:16; 62:16;70:23;85:2,2; 99:9;101:23;118:21; 155:8 executed (1) 42:3 execution (3) 42:4,12,15 executive (1) 33:16 executory (7) 10:24;15:13,18; 16:13,25;24:17;119:24 exempting (1) 162:20 exercise (3) 20:18;104:9;123:22 Exhibit (3) 27:4;168:16,17 exhibits (4) 32:10,13;118:4,11 exist (3) 69:10;72:12;141:15 existing (9) 75:11,17;78:17; 103:7,25;104:8;105:6, 7;106:3 exists (2) 71:23;153:21 exit (4) 52:20,20,23;53:2 expansive (1) 17:24 expect (2) 58:20;121:5 expectations (2) 101:25;167:22 expected (2) 87:1;104:5	expecting (3) 24:3;34:16;35:9 expeditious (1) 48:25 expense (1) 180:2 expert (1) 143:12 explain (12) 7:19;20:16;124:11; 125:5,5,22,23;126:20; 138:11;147:13;151:2; 174:4 explaining (1) 124:15 explanation (1) 86:10 explicitly (1) 181:16 exploding (1) 132:21 exposure (1) 134:22 expressed (1) 72:3 expressly (3) 70:15;153:1,4 extend (2) 101:13;150:6 extended (2) 58:25;61:1 extending (1) 111:2 extends (1) 170:12 extension (1) 119:10 extensive (1) 62:4 extent (9) 35:23;53:24;63:8; 98:16,18;113:10; 117:13;119:24;157:20 extra (1) 177:9	75:1;81:7;98:13; 134:1 facts (6) 5:20;79:17;81:3; 82:1,2;94:17 factual (1) 117:7 fail (2) 30:22;143:23 failed (2) 138:6;169:22 failing (2) 47:14;111:4 failure (6) 42:3,5,14;45:9; 77:24;138:8 fair (15) 40:4;43:3,5;48:11; 60:16;88:12;91:3,15, 17;102:24;128:13; 133:20;166:9;174:14; 176:24 fairly (7) 14:5;40:22;60:17; 93:14;103:1;173:8; 174:6 fairness (4) 147:24,25;153:11; 160:23 faith (5) 27:9;112:23;145:11; 166:9;167:22 fall (2) 90:18,22 fallen (1) 90:18 falls (1) 103:6 familiar (1) 98:21 familiarity (2) 114:3,3 famous (1) 11:2 far (4) 21:10;41:7;60:25; 90:18 fast (1) 22:9 fault (2) 37:25;110:1 faulty (1) 129:12 favor (1) 30:7 favorable (1) 82:25 favorably (3) 143:13;144:13,20 feasibility (8) 136:21;141:25; 142:1,13;145:4,12; 148:20;164:23	feasible (2) 136:20;166:12 Feather (1) 37:24 February (2) 44:18;49:13 federal (11) 26:8,19;28:12;29:19; 58:11;79:15;81:1; 92:16;138:15,19,21 feds (1) 33:4 feedback (2) 89:9,17 feel (3) 117:14;159:1;178:23 fees (1) 45:7 feet (2) 32:18;142:22 Feldman (1) 177:21 FEMA (1) 29:19 Ferrara (2) 188:3,9 few (11) 10:20,21;21:24;22:1; 28:24;64:5;96:12; 103:5;110:5;125:11; 169:2 fide (1) 116:25 fiduciaries (1) 180:5 fiduciary (5) 112:14,18,21; 150:19;181:23 field (1) 43:19 fifteen (1) 35:3 Fifth (3) 92:20;137:9;148:12 fifth-largest (3) 145:22,23;146:1 fifty (7) 42:8;49:17;108:12, 18,22;135:13,13 fifty-six (1) 6:20 fight (1) 140:19 fighting (1) 172:7 figure (5) 7:18;76:25;93:3; 114:4,15 figured (1) 77:2 figuring (1) 94:10 file (20)
		F		
		F3d (1) 86:23 face (2) 103:21;146:2 fact (28) 5:11;21:14;27:13,17; 60:11;70:7;77:3,24; 78:16,21,22;81:21; 92:20;97:23;101:6; 105:1;106:14;107:10; 113:25;116:9,11; 121:14;135:1,8; 137:17;159:10;167:12; 182:3 factor (4)		

58:24;59:3,8,9;60:4; 68:18;111:3;137:18; 146:19;147:21;159:20; 22,23;169:5,14;180:1; 181:15,24,25;182:20 filed (25) 6:6,17;7:1;10:20; 11:4;15:15;20:13;21:5; 59:4;60:8,25;62:9; 63:6,16;68:20;97:9; 98:2;111:7;112:16; 133:13;141:7,16; 161:15;169:21;182:6 files (1) 6:12 filing (1) 82:4 final (7) 88:11;102:5,9;120:4; 122:19,19,20 finality (1) 52:12 finalize (2) 38:15;120:17 finalized (1) 4:15 finally (5) 28:19;64:21;88:10; 89:15;145:3 financial (7) 41:13;42:18;144:24; 145:25;150:15;160:16; 162:10 financing (20) 123:19;124:19,19; 139:23;140:2,3; 142:14;144:16,18; 146:24;147:17,21; 151:24;152:15;153:6; 12;161:16;165:23,25; 183:14 find (6) 6:14;9:15;77:1; 117:23;168:16,16 finding (1) 21:13 fine (19) 10:16;11:21;14:8; 15:15;20:8;49:8;52:11; 93:20;118:13;129:9; 10;146:14,17;155:9; 10;167:7;172:18; 182:8;185:3 finish (2) 14:4;169:4 finished (2) 15:1;184:6 Fire (90) 9:7;15:21;26:3;27:1; 6;29:13;30:1;31:2,3; 33:10;40:9;41:24; 42:16;43:18;44:8,11, 16;45:4,24,25;46:12, 13,14,16,21;47:1,3,16, 21;48:1,3,8,11,18,21, 24;49:1,10;50:1,2; 51:4,8,10,11,12;53:5; 64:1;99:5;100:14,15; 103:13,14,15;125:18, 19;131:24;132:21,22, 22;133:10;134:19,19; 140:11;141:14,24; 142:6;146:8;147:10, 11;149:12;150:14; 151:7;152:1;160:14; 163:15;165:18,24; 169:13,15,23;171:9; 173:10,11;174:5; 177:3,6,15;178:9; 181:23 firefighters (1) 58:19 fires (2) 132:25;134:1 fire's (1) 143:8 firm (8) 33:22;54:17;112:12; 136:5;142:16;179:13, 14;182:5 firms (2) 139:21;176:6 first (48) 20:2;21:25;28:15,15; 31:19;39:12,14,18; 43:24;46:10;52:2,19; 56:11,14;64:15,25; 92:6,6;97:3,25;108:25; 114:25;120:10;125:3; 129:3;132:19;133:6, 21;135:8;136:17; 137:25;142:18;145:13; 146:20;147:4,7; 150:14;151:9;153:21; 154:2;157:4,6;158:5,6; 160:19;173:8;176:5; 184:20 Fist (2) 83:7;152:7 fit (1) 65:25 fits (1) 71:18 five (13) 36:12;39:22;92:9; 110:5;140:11,16; 147:16;150:5,8;155:7; 163:4,15;164:4 fix (10) 64:13;67:8,17;73:1, 19;74:5,6;88:24;90:5; 113:3 fixable (1) 111:21 fixed (3) 64:10;111:23;117:3 fixes (5) 64:11;74:9;79:7; 83:25;117:12 flames (1) 34:12 flaw (1) 107:12 floor (2) 10:17;57:18 flux (1) 104:2 flying (1) 161:21 focus (3) 23:2;40:25;159:2 focused (2) 112:2;113:11 focusing (3) 51:4;93:5;114:7 fold (1) 69:10 folks (11) 9:17;10:6;13:17; 65:15,25;87:8;103:18; 123:21;124:7;143:2; 170:14 folks' (1) 61:1 follow (4) 7:6;71:6;121:5; 169:7 following (4) 87:23;99:19;123:8; 165:16 follow-up (2) 38:3;109:18 forbid (2) 46:25;51:8 forbidden (1) 65:2 forced (4) 42:7;132:16;135:12; 136:2 forefront (1) 131:24 foregoing (2) 66:4;188:3 forgot (3) 59:6;122:10;179:7 form (17) 7:4;41:16;63:20; 72:6,7,10,11;103:5,12; 108:16,19,19;139:22; 147:2;151:25;153:18; 184:9 formal (1) 180:10 format (1) 35:19 formation (1) 21:1 former (3) 61:10,16;66:16 forms (1) 132:7 formula (50) 41:25;57:23;64:17, 23;73:23;74:13;76:7, 21;77:1;79:8;80:6,19; 81:14,15;82:24,25; 84:5,7,15,17;86:6; 88:24;90:5;91:6,19; 92:3,9,20,25;93:5,8,10, 17;94:4;96:15,16; 97:19;107:2,2,3,17; 108:10;113:8,25; 114:9;115:6,23;116:5; 117:5,9 formulas (1) 81:5 formulations (1) 114:4 forth (6) 11:23;14:7;21:15; 47:5;157:9,22 fortuitously (1) 78:21 forty (1) 49:17 forty-five (1) 128:20 forward (7) 120:10;127:14; 129:25;155:8;174:15; 186:24;187:2 found (2) 7:9;83:11 four (5) 63:19;79:23;132:14; 142:23;155:7 fourteen (3) 6:17,19,24 fourth (3) 79:24;136:25;146:12 fraction (5) 7:4,14;83:3,4;113:20 frame (1) 158:5 framed (3) 135:7;155:11;179:2 framework (1) 175:2 FRANCISCO (3) 4:1;22:25;121:8 frankly (8) 13:2;65:6;80:24; 91:13;93:14;95:4; 141:18;180:9 fraud (18) 7:22;27:9;78:3,5,7, 15,17,22;79:5;80:13; 82:3;87:25;88:16; 90:14,14;91:1;94:14; 107:12 fraud-related (1) 90:17 frauds (1) 78:25 freedom (1) 168:5 freeze (1) 67:24 fresh (1) 129:3 friction (1) 64:14 FRIDAY (7) 4:1;85:20;167:7,8; 176:2;183:11;185:21 Friday-night (1) 180:18 friend (1) 29:10 front (12) 13:20;28:18;32:11; 44:5,21;63:23;103:12; 133:3;135:2;161:15, 17;175:16 frozen (3) 63:2;73:13,16 frustrated (1) 109:11 Fulbright (1) 37:23 fulfill (1) 112:21 full (7) 12:22;46:21;115:12; 154:14;170:22;181:6; 186:9 fully (5) 40:12;56:20;62:3; 84:9;144:25 fun (1) 186:15 function (4) 8:25;92:16;126:21; 143:1 fund (4) 52:15;112:21;144:9; 145:15 fundamental (5) 74:16;84:3;86:11; 137:6;145:10 funded (2) 44:25;46:13 funding (4) 47:6,9;64:1;176:2 funds (5) 58:14;61:14;146:5,5; 160:8 funneled (1) 103:15 furnished (1) 5:3 further (8) 4:21;15:17;28:7; 38:11;54:5;112:2; 123:16;127:6
--

future (3) 66:18;93:12;146:4	46:25;51:8	gross (1) 42:8	handle (1) 142:24	35:10;49:1,2;70:8; 87:4;104:1;114:24,25; 115:2;120:2;124:24; 125:16,17;127:8; 129:5;134:20;144:11; 153:7,9;172:6;175:6, 11;178:2;186:4,5
G	goes (7) 70:24;72:25;79:6,21; 88:4;106:13;140:24	grounds (1) 118:5	handled (1) 115:9	hearing (16) 14:14;28:16;57:10; 60:3;63:1,17;89:13; 95:23;115:15;127:6; 132:12;142:7;167:16; 175:15;178:20;185:25
game (5) 6:18,18,24;28:11; 55:12	go-forward (1) 52:15	group (12) 5:4,8,17;12:18; 15:25;22:24;36:14; 38:14;141:6,18; 160:13;167:2	hands (10) 19:15;25:6;36:8; 56:13;115:12;118:18; 152:13;181:6;186:7,9	hearings (4) 47:22;135:15;137:8; 143:14
gander (1) 148:1	Good (44) 4:8,10;9:3,5;10:2,3, 6,8,12;24:22;28:10; 32:17;36:23;37:2,12, 15,22;38:18;42:4;54:1, 1;55:6;56:6;58:6; 87:16;112:4,23; 117:25;128:3,6,8; 130:16;135:21;139:9; 144:18;145:4,11; 160:8,10;166:9,13; 167:22,23;177:17	groups (2) 136:21;167:1	hands-off (2) 30:20,21	heart (1) 90:3
Gas (1) 68:10	good-faith (2) 151:1;164:22	guarantee (6) 40:13;41:7,23; 163:20;166:19;171:23	hang-ups (1) 5:11	heart- (1) 49:18
gave (7) 31:4;32:1;54:19; 82:20;107:9;134:17; 160:3	goose (1) 147:25	guaranteed (5) 137:3;140:9;146:3,4; 154:3	happen (12) 49:4;51:19;69:20; 72:7;83:16;93:2;96:13; 116:12;143:8;145:3; 176:18;182:22	heavily (1) 26:24
gears (1) 120:1	Gorton (23) 9:17,19;10:6,8,25; 11:7,20;12:18;13:18, 20;14:17,19,23;17:13, 13,15,19,22;18:5; 25:20;119:5,16;125:16	guaranteeing (1) 165:1	happened (8) 78:5;82:3;87:25; 90:16;112:5;135:5; 136:4;162:18	heavy (5) 19:23;109:23,24,25; 110:2
Geller (1) 99:4	gotshal (1) 179:18	guarantees (3) 139:20;164:2,3	happening (2) 22:9;57:14	heck (1) 141:25
general (5) 33:25;34:1,17;59:9; 63:24	government (16) 16:1,3;29:14,18,18, 25;30:21;31:4,7;34:1; 125:19;138:15,19,21; 139:1;172:22	Guaranty (1) 11:7	happens (10) 7:3;52:17;72:4,14; 101:18;173:14;176:1, 2,2,2	heirs (1) 42:5
generally (1) 22:22	governmental (4) 4:24;11:3;22:22; 25:12	guess (5) 56:23;57:18;93:10; 98:11;101:17	happy (6) 11:21;13:1;160:6; 179:25;181:24;186:14	held (6) 65:23;87:11;105:4; 135:22,23;163:21
gentlemen (1) 85:17	governor's (1) 26:16	guidance (1) 83:7	hard (5) 32:17;47:8;53:10; 141:2;160:16	helicopters (1) 143:1
gets (7) 70:11;76:21;80:11; 98:15;113:20,20; 185:16	governor (1) 145:3	guy (2) 124:8;186:18	hardening (1) 142:20	Hello (1) 19:9
giant (1) 34:11	governors (2) 49:10;144:2	guys (1) 142:24	hardly (1) 105:18	help (8) 21:15;34:18;47:3; 112:3;136:6;138:20; 147:6;179:8
given (12) 32:25;49:11;70:7; 81:3;86:7,11;87:6; 120:3;124:9;155:21; 178:13,13	governor's (3) 122:9;144:3,20	H	Hardwoods (1) 67:14	helped (2) 135:3;138:10
gives (2) 150:23;152:8	grant (3) 132:23;162:6,7	habit (1) 85:18	hat (2) 26:13,23	helpful (4) 117:11;125:12; 180:16,20
giving (4) 34:1;136:14;149:9; 159:15	granted (3) 132:19;137:5;174:2	half (5) 41:2;80:18;129:18; 143:7;163:24	hate (2) 120:14;161:20	herding (1) 13:21
glad (2) 86:3;140:25	granular (1) 99:18	halfway (1) 160:6	haul (1) 6:19	here's (8) 47:10;88:1;135:23; 164:25;166:11;167:17; 169:17;171:13
glaring (1) 97:15	great (10) 41:16;47:14;49:9; 50:7;72:20;83:2,4,18; 95:21;174:25	Hallisey (1) 46:6	heads (1) 136:5	hiding (1) 130:21
Glassman (30) 18:12;19:2,5,6,8,9, 11,11,14,17,21,24; 20:1,12,21;21:22; 22:11,14,16,19;23:22, 24;24:9,10,15,17,19, 21;25:19;119:6	greater (4) 92:13;132:14;146:2; 166:1	halls (1) 142:10	heads-up (1) 158:6	high (3) 86:11;138:8;180:19
Glassman's (1) 22:2	greatly (1) 144:23	hallucination (1) 42:12	Health (1) 37:23	higher (5) 7:17;75:15;83:15; 103:17;182:15
global (1) 75:13		hammer (1) 93:12	hear (31) 5:14;10:7,12,15; 11:8;12:13,15;25:7; 26:6;28:2;39:11;40:18; 57:17;62:18,18;64:18; 73:9,16;89:11,21;90:8; 114:22;118:17;140:25; 155:13,20;175:8; 176:5;180:9,11;186:11	highest (4) 83:1,2;84:24;144:4
goal (2) 48:24;110:19		hand (22) 8:24,24;9:15;18:13, 17,18,22,24;19:15; 25:8,10,16,18;27:22; 34:25;56:16,22;95:19; 110:18;127:21;181:10; 186:20	heard (32) 4:23;5:23;11:10; 12:20;25:9,11,13;	highlight (1) 169:6
goals (1) 42:25		hand- (1) 182:3		high-low (1)
god (2)				

<p>96:2 highly (1) 40:20 himself (2) 56:20;120:18 history (2) 47:21;133:9 hit (1) 145:24 hitting (1) 89:14 Hold (19) 10:5;27:21;28:5; 47:10;57:13;63:12; 64:3;65:23,23,25; 67:25;81:4;103:11,22; 130:1;149:20,23; 163:19;175:5 HoldCo (25) 68:4,5,7,7,13,24; 69:5,10,22,22;71:13, 16,17,25;72:12,13,24; 73:2,3,21,25;74:23; 153:16;161:17;162:3 HoldCo's (2) 69:13;71:23 holder (6) 59:20;77:21;96:24; 105:17,18;108:5 holders (10) 45:6;74:14;75:24; 103:7,25;104:8;105:6; 106:3;117:9;153:19 holding (2) 71:7;153:16 holdings (2) 149:13;150:2 home (3) 159:21,22;168:14 homeowners (1) 42:6 homes (2) 42:23;47:11 homework (2) 54:20;121:9 honest (6) 17:10;49:6,12; 140:16;158:8;182:7 Honor (322) 4:6,10,14;9:5,23; 10:1,3,13,18;11:17; 12:8,14,17;14:10,19, 24;16:2,12;17:13,19; 18:9,9;19:18;21:19; 22:19,20;23:23;24:1,7; 25:23,25;27:19;28:4, 14,15,24;30:16,24; 33:18;34:13,20;36:5, 10;37:9,14,20,22;38:6, 21,24;39:13,15,24; 40:3,10,19,23;41:6; 43:20,24;44:21;45:16, 20;46:9;49:14,15,16;</p>	<p>50:8;54:9;55:3,7,11, 23;56:1,6,12,16,19,25; 57:3,7,20,21;58:2,6,17, 21;59:10,21,24;60:15; 61:5,18;62:8,16,21; 63:3,14,16,19,22; 64:11,13,15,18;65:1, 22;66:9,15;67:5,19,23; 68:2,17;69:2,6,7;70:3, 15;71:10;72:20,25; 73:9,12,15,17,19;74:4, 11;76:2,17;77:8;78:10, 14,18,20;79:6,12,22, 25;80:4,16;81:7,8,25; 83:9,17,22;84:3,15,22; 85:16;86:4,15,23;87:6, 16,19;88:2,8,17,24; 89:5,20,21,25;90:2,4,8, 12,13,20;91:5,8,13; 92:14;93:7,10,11; 94:11;96:9,15;97:14, 25;99:1,12;100:25; 101:5;102:4,9,12; 105:10,21;106:17,23; 107:7,15;108:16; 109:7,14,21;110:4,6, 19;111:6,9,14,17,24; 112:7;113:1,22;114:7, 20,24,24;115:2,13,22; 116:1,8,21,24;117:8, 10,18,24;118:1,8,20; 119:20;120:6;121:12; 122:8,11,21;125:8; 128:3,8,12,23;129:5; 130:4,10,16;131:3,8, 15,22;132:5,12,15,24; 134:6,18;135:10,14,16; 136:11,25;137:13,16, 18,19,20;138:9,14; 140:6,15;141:13,23; 143:19;145:13;146:13, 13;147:8;148:5; 149:20;150:25;151:23; 154:17;156:5,23,24; 158:7,19;159:9,24; 160:14;161:15;163:16, 19;164:12;166:11; 168:4;169:5,17;170:9, 14,25;172:18;173:16; 174:13;176:5,20,25; 177:3,7,22;178:3,6,16; 179:3,22,25;180:2,6; 181:14;182:23;184:16; 186:17;187:5 Honorable (1) 4:5 Honor's (10) 38:9,13,17;62:13; 64:20;71:18;74:14; 101:2;114:25;115:16 hook (1) 100:2 hope (8)</p>	<p>5:14;38:11;53:16; 85:19;86:3;147:6; 156:16;178:22 hopeful (3) 20:12;157:4,24 hopefully (7) 13:14;46:21,22;50:5; 54:22;118:24;158:15 horseshoes (1) 111:9 Hospital (1) 37:24 Hostetler (4) 128:4;130:17;131:1; 180:25 hour (11) 12:20;54:19;57:16; 58:1;128:23;129:13, 18,19,19;169:2,2 hour-and-a-half (1) 171:1 hours (2) 135:1;182:19 house (1) 142:22 housekeeping (1) 118:2 huge (3) 46:16;49:11;143:15 hundred (6) 41:14;51:22;108:11, 11,15;169:21 hundred-percent (1) 169:18 hundreds (2) 155:25,25 hypothetical (28) 5:18,19;6:5;8:18; 13:17;21:4;57:19,21; 58:3;64:21;71:19; 72:17;76:23,24;77:3,5, 13;78:20,24;80:3; 81:22;82:15,18;91:24; 92:9;97:8;98:5;107:23 hypothetically (2) 69:12;113:23</p>	<p>II (1) 74:15 imagine (5) 14:6;33:14;39:7; 136:4;140:13 immediate (1) 31:25 immediately (2) 13:6;121:20 immoral (1) 163:17 impact (8) 46:17,24;66:20; 67:23;116:9;117:1; 137:9;183:14 impacts (1) 79:20 impaired (1) 64:23 impatient (1) 166:22 imperfect (2) 44:21;46:1 impermissible (1) 67:2 implement (1) 64:13 implementing (1) 75:1 implicitly (1) 105:4 impliedly (1) 181:17 importance (4) 40:8;63:25;110:24; 124:23 important (43) 20:1;46:8;49:24; 61:19,21;75:18;90:13; 123:22;124:19;128:24; 132:7,8;133:4,16,19; 134:6,17;135:5,6,24; 136:14,25;138:9,10,12, 24;139:25;140:5,8,13; 141:6,17,21;143:18; 145:19;147:3;159:1; 165:9;170:11,13; 177:3;179:4;181:14 Importantly (3) 106:21;111:21; 154:12 imported (1) 68:22 impose (1) 185:23 imposed (1) 112:14 imposes (1) 156:15 impression (2) 108:25;125:4 improve (1) 143:4</p>	<p>improved (2) 142:19;144:23 improvement (1) 143:15 improving (1) 143:10 inaccuracies (1) 10:22 incentive (1) 59:6 inchoate (1) 23:16 inclined (4) 121:18;123:10; 135:21;183:1 include (4) 58:18;60:23;112:15; 139:23 included (5) 27:13;59:11,13; 170:5,19 includes (8) 5:4;23:15;29:13; 30:15;45:5;72:13; 104:17;155:12 including (8) 12:18;44:11;46:5,6; 60:24;96:23;113:9; 132:20 inclusion (1) 44:7 inclusive (1) 61:25 inconceivable (1) 7:20 inconsistencies (1) 23:7 inconsistent (4) 8:7,14;171:20; 172:15 incorporate (1) 40:4 incorporated (1) 68:19 incorporates (1) 68:21 increase (2) 68:14;108:14 increased (2) 41:22;133:22 incur (1) 134:1 indeed (1) 64:10 indemnification (5) 66:16,19;97:4;134:9; 139:14 indemnified (3) 30:15;134:7;139:6 indemnifies (1) 27:10 indemnity (5) 16:14,24;66:22;</p>
		<p>I</p>		
		<p>idea (5) 8:7;116:15;121:2; 160:10;165:19 identical (1) 106:8 identified (6) 28:22;56:20;111:22; 112:8;117:14;186:20 identify (1) 136:15 identifying (1) 56:22 ignores (1) 90:25</p>		

139:11;169:14 independent (3) 69:18,18,24 indicate (1) 117:8 indicated (4) 21:6;115:2;117:5; 123:24 indicates (1) 184:13 indication (1) 167:20 indirectly (1) 66:2 indiscernible (24) 17:5;24:16,16;41:8; 56:15;64:22;88:23; 89:1;98:4,6,23;100:6; 105:7;106:2;108:2; 111:11;116:20;117:17; 120:7,8,9;122:1;156:7; 163:7 individual (17) 30:5;32:13;37:17; 39:25;40:8;41:13,19; 42:2,16;65:21;71:3; 79:25;98:19;101:14; 112:19;137:12;170:17 individuals (1) 30:14 indubitable (4) 135:15,16;140:17,21 industry (1) 166:10 inescapable (1) 7:2 inference (2) 150:24;151:3 inflation (1) 87:24 influence (1) 167:18 influenced (1) 100:13 inform (2) 179:9;181:7 information (7) 44:13,21;45:21;46:1; 74:12;142:11;175:21 informed (1) 25:1 informing (2) 44:11;131:4 inherent (1) 104:17 initial (1) 40:7 injunction (12) 17:17;64:15,25; 65:17,22;66:6,24; 67:13,22;68:1;110:22; 113:2 injured (1)	111:2 injury (2) 96:1;133:11 inserted (1) 116:6 insertion (1) 67:18 inserts (1) 9:7 insignificant (1) 84:11 insinuation (1) 60:1 insisted (1) 173:19 instance (5) 75:6;88:15;95:3; 98:10;103:21 institute (1) 32:23 institutional (2) 42:18;112:8 insurance (30) 8:2,3,11;27:11;45:6; 76:9,20;93:4;96:19,20; 21;97:11,23;98:12; 99:10,24;100:6,8,9,12, 14,21;101:14;107:2, 18;113:10;134:11; 139:3,5;143:22 insured (4) 99:13,18;100:9; 101:12 insurer (3) 99:20;100:14;177:13 insurers (1) 177:2 intend (1) 93:20 intended (1) 39:20 intent (1) 113:3 intention (3) 35:16;121:17,23 intentionally (1) 184:10 interest (9) 31:19;65:24;66:8; 75:4;106:11,15,17; 131:24;181:23 interesting (2) 77:8;93:7 interests (9) 21:24;23:16;75:2,11, 17;103:7,9,9;106:9 interject (3) 38:24;156:24;176:9 interjecting (1) 176:8 internal (2) 33:15;63:7 internally (1)	171:20 International (1) 162:23 internet (5) 54:23;85:18;109:12; 129:12;183:1 interpretation (2) 70:25;167:25 interpreted (1) 53:3 interpreting (1) 89:3 interrupt (3) 21:19;148:2;154:7 interruptions (2) 120:3;184:2 into (57) 6:25;9:19;19:2;31:8, 13;42:2;47:20;48:1; 52:8;55:20;60:7;63:21; 64:22;65:25;67:18; 68:19,22;69:10;71:18, 20;76:6;80:12,21,25; 81:8;86:7;90:7;92:10; 93:17;94:17;102:8; 103:15;104:17;105:22; 106:4;113:12,14,24; 123:24;130:6;131:19; 136:1;138:15;139:16; 140:14,24;144:16; 153:16;154:24;158:20; 160:18;161:18;162:10; 177:7;181:10,13,18 intraday (1) 84:25 invent (1) 117:5 inventory (2) 10:18;15:2 invest (1) 146:6 investigate (1) 179:15 investigation (2) 137:18;180:1 investment (4) 136:23;145:8,17; 150:16 investor (18) 6:25;8:2,13;77:5,6, 16;78:20;79:12,13,14, 15,17,18;97:8,20;98:1; 107:23;149:22 investors (16) 7:20;42:19;78:9; 81:12;86:13;91:23,24; 110:13;111:3,4,7; 146:4,5;162:16,19,21 investor's (1) 79:25 invite (1) 34:17 invites (1)	42:14 invoked (1) 102:22 involuntary (1) 65:8 involve (1) 105:8 involved (9) 31:16;33:22;65:16; 110:20,22;124:25; 133:1;158:15;176:17 involving (4) 20:15,24,25;137:17 IPO (2) 141:2;163:14 IR (1) 54:23 irregularities (2) 179:12,16 irrelevant (1) 42:4 irrespective (1) 97:7 irresponsible (1) 167:19 Irrigation (2) 18:13;19:13 issue (77) 8:8;14:21;15:10; 16:16;17:15;18:14; 20:10;21:4,22;22:7,22; 23:4,9,19;24:11,19; 25:22;26:6;28:25; 31:25;33:19;36:15; 38:16;43:7;48:14;50:3; 65:13;66:6;67:7;68:2, 5;71:8;74:11;76:10; 77:10,11,13,14;78:6; 83:12;84:4;93:15,17, 19;94:20;95:3,4,11; 96:15,16;102:9; 106:13;109:3;110:11; 111:19;113:2;116:22; 124:11;127:16;141:4; 143:11,11,12;144:5; 148:21;149:1,1;156:3, 4,5;158:4,17;159:19; 164:23;180:12;184:3; 185:11 issued (7) 95:12;96:11,22; 103:10;125:6;170:3; 171:8 issues (64) 4:16;11:9;14:1; 15:18,18,22;16:5,6,9, 13,15,17,21;18:14; 20:4;21:16;22:8,20; 23:1,1;24:20;26:4; 28:23;35:7,24;38:12; 39:3;44:7;45:14;49:24; 52:19;63:21;64:9,12; 74:13;79:13;86:4;	107:17;110:1;111:22; 112:1,23;116:24,25; 117:3,4,16;119:5,25; 120:11,14;121:6; 125:4;128:24;137:14; 142:2,10,12;155:7; 157:24;173:16;174:18; 179:2;184:4 item (3) 139:18;175:20; 183:12 items (3) 4:20;18:4;185:2 iteration (1) 116:7 Ivanhoe (9) 97:14;98:22;99:4,19, 25,25;100:17,19; 101:13 <hr/> J <hr/> January (3) 6:1;62:3;184:7 JCCP (1) 40:1 Jim (2) 128:8;130:10 Joaquin (2) 18:12;19:12 job (2) 50:7;186:15 Johnson (3) 58:24;96:12;186:5 Johnston (35) 5:16;7:5,16,24;70:9; 78:5;79:22;80:4,8,25; 87:5,19;95:22;100:23; 107:9;120:5,18;121:7; 127:8,22;128:7,8,9,11, 12,17,20;129:2,5,16, 17;130:10,10,13; 178:21;183:3 Johnston's (2) 125:1;179:1 join (2) 36:20;133:14 joined (1) 133:17 joining (3) 4:7;19:5;55:3 joins (1) 56:15 Judge (64) 28:19,20;29:9,13,24; 30:12;31:2,5,11,17; 32:8,23,23;33:9;39:19; 47:20;49:14,16,18; 51:23;52:13;53:13,14; 58:12,13;60:7;62:6; 72:1;85:3,7;87:7;91:9, 14;93:14,15,19;95:10, 13;109:12;112:3;
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115:11;124:14;133:3; 6,7;134:19;135:2,25; 136:3;138:20;143:6; 13,14,16;156:13; 174:17;175:1,6,9,18; 176:1,9,10;186:16 judged (1) 41:17 judges (2) 58:19;95:9 judge-to-judge (1) 176:17 judgment (12) 31:17;38:22;72:17; 97:21;98:1,10;101:19, 22,23,24;105:16; 173:15 judgments (2) 81:12,22 judicata (1) 27:16 judicial (1) 125:25 juggle (1) 25:16 juggled (1) 24:23 juggles (1) 24:24 Julian (114) 4:19;35:12,17,23; 120:7;127:7,13,20,23; 128:1,3,4,6,22,23; 129:9,11,14,25;130:1, 2,4,11,23,25;131:1,13, 17,19;135:21;136:11; 146:16,18;148:5,9,19; 151:2;154:7,17,21; 155:2,16,20,24;156:2, 5,8,23;157:10,16; 158:11,23;159:4,9,14, 20,24;160:11;161:4,11, 14,20,23;162:1,5,9; 163:3,6,8;164:1,6,9,22; 165:4;166:21,21; 168:4;169:5;170:9; 171:13,15,18;172:2,9, 13,17,20;173:7,21,23; 175:11,21;176:4,15,20, 22;177:20,22;178:3,4, 6,15,16,22;179:3,6,7; 180:5;181:7;182:23; 186:15,17;187:2,5 Julian's (3) 154:14;183:23,24 July (5) 52:16;121:14,14; 123:24;166:15 JUNE (20) 4:1;51:22,24;52:11, 12;53:5;121:9,18,20, 23;122:2,6,8,15,16; 123:9;141:3;144:11;	166:14;188:15 junior (1) 103:2 jurisdiction (5) 15:10;48:9;114:11; 119:10;143:16 Justice (5) 30:7,16;150:13,14, 15 justify (1) 181:19	25:9;36:7,12,21; 37:7,9,9,10,12,14,16, 16;39:7,13,15,18; 40:19,23;41:2,6,10; 43:21;46:3;54:1;153:9; 160:22;165:10 kept (2) 42:13,13 key (1) 151:6 kicked (1) 67:9 kicker (1) 105:6 kicking (1) 110:21 kind (11) 50:21;94:10;100:12; 109:1;124:6;125:18; 158:5;164:20;178:17, 19,21 kindly (1) 147:6 kinds (1) 185:5 knew (3) 142:8;151:3;155:6 knowing (1) 159:18 knowledge (1) 142:21 known (2) 108:25;134:20 knows (2) 40:16;50:21	8:6;9:9;12:19;22:17; 28:16,17;35:2;40:16; 41:11;46:4;53:11; 85:23;92:21;114:17; 120:21;132:12;138:1; 141:5;142:25;144:1,8; 145:19;158:12;159:5; 165:9;173:24;176:25, 25;182:19;184:7 late (2) 26:1;128:17 lately (1) 141:1 later (22) 5:17,24;6:5,12;8:17; 24:12,24;25:14;26:7; 34:7;35:13;57:23; 61:20;92:24;119:21; 124:10,11;127:25; 149:2;169:16;173:14; 174:15 latest (1) 116:7 Lauren (2) 130:17;164:11 law (15) 6:14;65:3,13;72:16; 104:11;112:14;114:4; 126:12;127:1;139:21; 145:11;154:5;164:23; 167:24;177:14 laws (8) 78:7;79:16,16;81:2; 92:16;98:13;99:7; 126:25 lawsuit (3) 60:5;66:20;169:16 lawsuits (3) 20:23;81:11;82:4 lawyer (5) 53:2,23;109:11; 173:5;176:16 lawyers (12) 33:21;96:2;138:16, 17;141:6,9,18;142:5; 167:23;170:13,17,20 lawyer's (1) 127:2 lay (1) 175:23 layman's (1) 145:21 lead (17) 9:24;40:1;58:10; 59:25;60:3,5,9,12,20, 22;112:11,13,16,17,17; 127:9;185:25 leading (3) 66:5;162:17;163:10 learned (4) 5:25;53:1;184:7,8 least (20) 18:2;40:21;47:3;	53:21;55:6;70:10; 74:21;97:22;100:24; 117:15;118:17;120:16; 141:5;144:8;145:19, 23;167:9;173:24; 176:17,25 leave (13) 9:25;34:3,3;39:9; 52:11;54:22;90:9; 92:24;101:1;109:10, 17;118:7,17 Leaving (4) 76:20;93:4,4;127:16 lecture (1) 47:23 led (1) 78:4 left (8) 7:7,13;49:25;51:10; 75:6;82:13;88:11; 135:12 leg (1) 109:19 legacy (1) 46:18 legal (3) 69:23;117:7;168:21 legally (1) 91:18 legislators (1) 58:19 legitimate (2) 44:23;45:1 Lehman (1) 69:8 Leighton (1) 86:23 lengthy (3) 62:4;107:9;154:8 less (5) 39:22;87:5;92:5; 103:12;113:25 letter (6) 56:17;140:2;146:24; 153:12,14;161:16 letters (2) 147:17,21 level (3) 29:9;43:19;73:22 liability (4) 96:5;134:2,24;146:9 liable (1) 134:8 LIDAR (1) 143:1 life (1) 172:11 lift (1) 20:23 lifted (1) 49:19 lifting (4) 19:23;109:23,24;
	K	L		
	Kanes (1) 46:6 Kane's (1) 40:7 Karotkin (121) 4:6,7,8,10,14;5:2; 9:6;12:14,16,17;13:6, 11,14;14:10,12,16; 16:23;17:2,5;21:13,19, 20,21;23:10,21,23,25; 24:1,3,7,11,14,16,22; 35:2,5,8,12,15,20,22; 36:2,10,17;40:6,10; 43:1;45:2,9;49:4; 51:16;54:12;65:7; 85:19,21;102:16; 118:23;119:1,15; 120:6,9;121:12,20,23; 122:4,14,20;123:1,5, 12,14,16,19;124:4,8, 17;125:8,10,14;126:3, 7,11,14,16,19,23; 127:3,12;129:16,17,21; 130:20,22;137:11; 148:16;155:21;156:19, 24;157:3,4;158:7,12, 14,25;164:13,16; 170:10;176:5;178:17, 19;182:16,24;183:16, 19,22;184:16,20; 185:19;186:2;187:1,6 Karotkin's (12) 13:22;17:10;47:17; 65:6;140:25;142:15; 160:1;167:25;179:13, 14;181:15,21 Kathy (3) 28:21;30:16;150:13 keep (16) 17:7,10;24:25;29:4, 8;38:18;39:4;54:23; 56:9;57:14;146:16; 155:25;166:23,23; 178:25;184:22 keeping (2) 125:12;131:24 keeps (1) 109:12 Kelly (27)	Labaton (1) 112:12 lack (2) 21:2;68:3 LAFCo (1) 21:6 lands (2) 71:25;115:23 language (14) 13:8;17:24;22:5; 24:2;38:8,15;39:1; 48:18;70:16;112:1; 113:6;157:10;167:2; 171:3 laptop (1) 168:14 large (6) 102:16;134:12; 138:10;139:15;141:10; 149:13 larger (2) 83:4;110:24 largest (1) 74:12 last (30)		

110:2 light (4) 27:23;60:15;64:7,18 lightly (1) 75:12 likely (2) 40:20;92:5 limitations (1) 165:12 limited (2) 46:2;134:13 limits (1) 101:8 Linda (2) 188:3,9 line (9) 88:17;92:2;115:22; 124:14;138:8,17; 143:12;145:2;164:19 lines (3) 8:16;94:18;143:2 Liou (3) 14:12;22:5,17 liquidate (5) 42:20;147:10,11; 150:10;163:16 liquidated (3) 6:13;82:21;139:17 liquidating (2) 140:12,17 liquidation (1) 43:3 list (9) 35:6;55:25;56:13; 95:13;118:4;158:23; 182:18;183:7;185:17 listen (5) 11:21,22;57:17; 63:10;166:24 listened (1) 44:4 listening (2) 43:20;186:17 literal (1) 72:21 literally (1) 184:25 litigants (2) 125:22;168:24 litigate (2) 160:8,11 litigation (27) 14:5;20:15,21;58:11; 60:1,6,12,21,22;61:3,6, 13,18,21;62:2;65:17, 21;66:12;67:1,21; 68:18;78:12;88:7; 144:1;170:25;173:14; 184:3 little (43) 6:6;11:1;22:4,17; 36:24;54:16;56:13; 57:6,23;58:4;61:3,20;	64:6;69:11;76:2,3; 78:12;80:15,17;83:23; 84:8,10;86:19;87:5,21; 88:5;89:20;90:1;99:17; 104:2;108:1;112:10; 114:17;116:4;129:20, 22;144:22,23;158:2; 167:9;172:24;184:8; 185:14 live (1) 21:3 lively (1) 116:23 lives (3) 47:10,12;185:25 lo (2) 116:5;163:22 local (1) 21:1 location (1) 85:9 lock (1) 140:11 locked (2) 149:24;159:10 locking (2) 140:16;150:8 lockup (6) 147:14;151:2; 162:15,15,19,21 log (2) 85:10,10 logical (1) 93:13 long (12) 6:18;13:3;14:5; 23:19;49:25;122:16; 128:25;131:5;150:10; 170:15;184:2;186:13 longer (2) 59:22;150:6 long-term (1) 146:5 look (28) 10:21;13:9,15;22:4, 19;24:9;33:5;34:25; 54:5;70:16;93:18; 100:1;135:20;142:17; 143:21;147:6;154:10; 159:3;160:23;162:9; 164:7;167:10;176:15; 183:7;185:1;186:19, 24;187:2 looked (1) 159:5 looking (8) 36:3;50:6;80:2;94:4; 123:6;146:8;150:8; 168:18 looks (3) 18:3;24:1;42:4 loop (1) 183:11	loose (2) 115:11;186:21 loosely (1) 184:11 losing (2) 60:20;109:12 loss (8) 6:7,20;41:21;88:2; 89:4,6,24,24 losses (1) 100:9 lost (8) 6:2,11;42:23;51:16; 85:3,22;110:13;112:20 lot (9) 24:23;42:2;89:9,16; 90:20;114:18;132:20; 137:1;184:8 loved (1) 42:23 low (2) 27:8;83:1 Lowenstein (2) 55:7;58:7 lower (5) 7:15,16;25:10;56:22; 113:23 lowest (2) 115:4,4 LP (1) 104:22 Ltd (1) 86:23 lunch (1) 85:8	76:2;90:20;115:16; 127:16;129:6;185:14 making (11) 16:19;38:21;43:25; 55:13;123:7;144:3; 154:24;161:10;163:23; 171:22;178:12 managed (2) 38:1;109:25 management (2) 138:5;144:23 mandating (1) 43:2 maneuver (1) 49:9 manipulate (1) 110:7 manner (4) 98:15;105:16; 119:17;149:18 mantra (1) 40:11 many (23) 20:3,17;23:5;24:17; 48:20;50:17;85:24,25; 91:11;96:12;111:10; 114:8;132:3;134:6; 137:21;141:9,24; 142:2,7;144:9;145:25; 159:6;177:23 March (1) 116:2 Mark (2) 17:13;168:12 marked (1) 168:11 market (15) 5:25;7:6;76:11;84:5, 17;87:21;90:6,23; 94:13;95:25;126:22; 144:20;145:22;146:3; 150:20 marketplace (1) 184:11 markets (6) 121:14;123:21; 124:7;144:12,13,14 marking (1) 168:12 Marshack (1) 175:17 Mary (1) 46:22 mass (1) 150:12 massive (1) 46:16 match (1) 108:15 matched (1) 133:23 material (1) 173:22	matter (19) 33:3;39:19;51:15; 63:24;65:2;92:2;93:22; 102:20;106:6;111:9; 118:2;121:7;126:12; 153:10;160:23;164:15; 168:21;180:13;182:2 matters (7) 21:11;22:11,15;34:5, 19,21;183:2 maximize (1) 150:19 maximized (1) 42:10 maximum (1) 96:3 may (37) 11:1;38:3,24;39:3, 15,16;47:16;56:19; 62:8;65:23;77:6;79:11; 90:1,10;94:11,19; 102:16;104:8;119:24; 120:13,19;124:10,19, 21;129:5;130:10,25; 138:14;147:19;156:20; 158:11,12;163:8; 169:20;171:8;174:1; 181:11 maybe (30) 13:2,3;14:2,6;22:8, 13;27:22;28:17,17; 33:14;50:14;51:3; 58:21;81:23;89:3; 100:19;107:25;108:1; 110:5;115:4,5,14; 120:2,2;122:3;127:5; 155:21;162:8;181:1; 183:5 may've (1) 77:7 McDonell (1) 186:7 mean (34) 8:12;11:16,17;15:23; 21:21;32:4;46:12;64:4; 71:5;94:6;100:11; 122:8;124:2;125:20; 126:18;129:17;135:10; 140:18;155:8;159:3; 163:1,2,5;164:7; 167:11;168:21,23; 172:4;183:7,12,24; 184:22;185:1;186:9 meaning (1) 51:24 meaningful (3) 44:7,12;110:25 means (5) 74:25;102:14; 152:23;174:9;185:4 meant (2) 156:21;183:21 meantime (2)
		M		
		MacDonald (2) 127:23;130:7 mad (1) 181:5 magazines (1) 145:25 magic (1) 108:10 magically (1) 69:10 magician (1) 24:24 magistrates (1) 58:19 main (1) 23:2 maintains (1) 48:9 major (4) 44:17;45:14;47:16; 137:20 majority (2) 152:3;153:19 makes (11) 42:13;65:4,5,6;75:1;		

6:16;8:22 measure (4) 79:4;80:14;82:18; 86:25 media (1) 109:5 mediate (4) 93:25;94:1,22;95:14 mediated (4) 93:15;168:3;170:16; 186:16 mediation (25) 26:25;45:14;50:4,10; 91:9;93:14,19;94:2,3; 95:17;112:3;134:16; 138:21,25;150:24; 154:25;155:5,8; 156:17;157:5;158:15; 159:11;160:12;167:15; 177:17 mediations (3) 45:22;47:7;134:18 mediator (2) 95:10;135:25 meet (2) 47:14;95:14 meetings (1) 170:18 meets (1) 157:13 Melodia (1) 37:10 member (1) 80:7 members (7) 40:2;42:7;58:17; 60:24;68:15;170:12,17 memoranda (1) 184:9 memorandum (5) 38:9;122:22;124:11; 184:12;185:11 memory (1) 164:12 mentally (1) 178:25 mention (2) 36:11;59:6 mentioned (17) 15:20;58:6;60:17; 73:24;84:23;102:6; 103:6;118:16;119:16; 139:4;143:20;144:9, 24;145:14;175:13; 183:8;184:24 mentioning (1) 103:11 merit (1) 87:14 merits (2) 110:8,10 mess (1) 167:15	message (2) 51:23;53:25 messes (1) 47:8 messing (1) 85:19 met (3) 121:10,11;184:7 method (1) 113:19 methodology (1) 92:25 metric (2) 74:17;91:14 Mexico (2) 58:8,15 Meyer (2) 53:13,14 mic (1) 54:22 Michael (3) 37:9,16;55:7 microphone (5) 19:7;37:13;55:4; 89:14,17 middle (1) 158:24 might (16) 9:23;51:15;56:19; 66:22;83:23;89:17; 92:4;94:2;105:19; 129:22;139:9;142:5; 146:7;163:20;167:18; 182:3 might've (1) 78:1 Mikal (1) 142:6 million (3) 7:14;31:19;59:15 millions (1) 112:20 mind (7) 28:24;36:2,2;133:13; 176:3;178:20;184:22 mine (3) 39:16;51:17;89:10 mini (2) 132:24;133:7 minimize (1) 117:6 minor (3) 15:5;30:5;107:12 minority (1) 136:21 Mintz (13) 25:10;36:7,13,21; 37:3,5,5;38:2,5,6,25; 39:5;43:25 minus (1) 84:10 minute (5) 54:14;58:21;62:23;	173:4;184:1 minutes (10) 10:20;21:24;28:24; 35:3;36:12;39:23; 110:5;128:21;132:21; 169:3 mirrors (1) 140:1 misconceptions (1) 58:22 misconduct (1) 27:9 missed (1) 182:3 misstatements (2) 68:11;69:18 misstating (1) 155:14 mistake (2) 7:13;41:16 misunderstandings (1) 44:15 mitigate (1) 77:25 mitigated (1) 77:22 mitigation (3) 142:19;144:19; 145:15 mixing (1) 171:10 mix-up (1) 118:24 modifications (1) 5:3 modified (2) 12:21;153:1 modify (2) 73:1;153:4 modifying (1) 18:1 Molton (28) 27:22,23;28:3,14,15, 18;29:1,6,8,12;30:8,10, 12;31:11,21,22,24; 32:6,8,16,19,22;33:2,6, 9;34:5,16,20 moment (25) 4:6;20:16;25:5; 60:17;73:13;85:5; 86:19;121:6,8;126:7; 127:24;139:19;140:7; 144:12;147:13;148:20, 22;152:2;153:3;154:5; 155:5;160:5,19;161:3; 164:2 momentarily (1) 85:6 momentum (1) 64:4 moms (1) 42:22 Monday (27)	38:17;53:13;65:7; 70:9,9,9;79:22;87:19; 90:3,13;96:18;107:9; 120:13;121:1;127:6, 11,16,19;128:18; 129:3;181:25;183:2; 184:20;185:18;186:1, 11,25 Monetation (2) 32:23,24 money (11) 8:8,11;40:9;42:21; 81:16;105:16,16,22; 123:21;124:13;149:7 money-raisers (1) 184:11 MONITOR (6) 85:2,5,14,16;89:13; 143:16 monitoring (2) 142:20;143:10 monopoly (1) 145:22 Montali (3) 4:5;85:3,7 month (1) 92:10 months (12) 40:16;41:11;45:5,14; 70:10;149:23,25,25; 150:25;159:6;163:14; 171:21 moral (1) 113:19 more (39) 9:21,21;14:17;44:19; 64:6;75:24,24,25;76:2, 3;78:20,25;80:15; 83:24;86:19,20;88:1, 20;90:10;99:18;100:5; 101:15;103:6;108:1, 12;116:4;118:24; 120:13;123:10;126:5, 8;138:1;143:14; 154:12;169:3;173:25; 176:11;179:21;185:17 Moreover (1) 31:1 more-than-capable (1) 118:18 morning (37) 4:8,10,13,18;5:1,9;3, 5,12;10:2,3,6,8,12; 12:1;36:23;37:2,22,25; 38:25;39:24;40:3; 43:14;56:6;58:6,24; 59:7;70:9,9;80:3; 87:23;89:7;128:18; 173:6;184:21;186:1,4, 25 morphed (1) 172:24 most (19)	20:1;40:15;41:10,15; 49:24;55:12,13;74:5; 82:25;97:15,15; 100:21;111:21,25; 121:14;127:9,17; 137:6;150:1 motion (14) 40:7;60:15;95:12,13; 110:22;132:24;133:13; 137:15;179:8;180:10; 181:10;182:18,20; 185:13 motions (5) 60:8,10;61:23;62:2,5 motives (1) 115:5 mouthed (1) 40:12 movants (1) 60:9 move (12) 24:2;54:11;60:5; 71:4;88:1;90:1;93:17; 117:23;149:20;150:7; 159:14;164:6 moved (1) 49:16 moving (2) 17:7;64:20 much (22) 7:16,17;18:7;24:3; 38:18;44:24;48:5; 64:14;66:11;76:1,1; 96:14;98:12;101:15; 111:14;123:10,10; 127:13;128:19;129:19; 182:13;187:7 multiple (3) 33:13;91:11;132:25 multiply (1) 84:6 municipal (3) 4:24;17:16;58:18 municipalities (1) 8:23 must (24) 42:9;64:10;72:18; 116:15;121:10;134:18; 137:1,4;147:18; 148:10,10,23,25; 149:16,17,23;151:10, 15;162:7,15;165:7,12; 172:4;177:7 mute (1) 85:11 muted (1) 37:20 Mutual (2) 104:12;146:5 mutually (1) 41:25 myself (9) 38:1;124:11,16;
--	--	--	---	---

125:5,5;139:10; 168:13;176:8,9	156:12;170:16,16; 177:16;178:11	65:9;79:20;86:21; 91:14;94:6;112:5,24; 162:18,20	objection (9) 9:7;17:25;20:9;62:8; 102:5;104:24;105:4; 112:8;173:19	101:8;130:11;131:4, 20;163:19,21
N	negotiation (1) 151:1	nonfiling (1) 182:7	objections (13) 16:13;111:20; 118:10;119:23,25; 125:13,13;127:17; 132:6;137:12;167:5; 169:9;186:13	offensive (1) 116:17
nag (1) 156:11	negotiations (3) 33:22;49:10;50:15	nonissue (2) 101:22;102:1	objection's (1) 125:24	offer (1) 138:2
name (13) 10:10;28:15;35:1; 37:3,19;56:11,20,24; 58:20;92:21;122:10; 130:15,16	Neither (1) 45:24	nor (1) 40:1	objectors (3) 17:16;120:21;128:25	offered (3) 111:25;132:13; 141:15
named (1) 61:12	net (2) 67:1;84:17	Northern (1) 50:23	obligations (7) 30:23;66:16,19; 112:18,21;177:2,14	offerees (1) 104:15
names (1) 56:14	new (11) 24:1;54:24;58:8,15; 74:15;80:10;84:18; 103:10;131:6;162:24; 185:22	Norton (1) 37:22	observation (2) 13:22;51:19	offering (17) 52:8;53:7;104:3,14, 19,25;105:4;106:25; 107:3,7,8;108:13; 116:8,12;141:2; 162:16;163:14
narrow (1) 177:15	news (1) 144:15	note (8) 30:3;61:19;133:16; 134:6;153:22;170:11; 174:22;181:15	obstacle (1) 76:25	offerings (2) 61:17;165:20
nation (1) 162:18	Newsome (14) 91:9,14;93:14,15,19; 95:11,13;112:4; 115:11;134:19;135:25; 136:3;138:20;186:16	noted (3) 81:8;84:22;96:12	obtained (1) 140:23	office (2) 122:9;144:4
national (1) 111:11	next (33) 47:15;53:5;54:7; 74:11;124:1;144:7; 146:21;148:6;149:9, 19;151:5;152:20,21; 153:13;158:24;162:1, 12,22;164:4,9,10,11, 19,24;167:6,8;169:8; 170:1,24;172:20; 173:3;180:19;183:10	notes (2) 61:17;80:2	obvious (3) 111:16;143:21; 171:19	officer (2) 97:10,12
near (1) 84:23	nice (1) 117:22	notice (5) 25:6;44:9;58:25; 63:18;111:16	obviously (21) 35:18;50:16;58:20; 59:16;61:9;64:22; 65:24;71:2,16;75:22; 93:8,25;99:2;102:9; 110:9;123:9;125:1,20; 157:6;179:21;183:24	officers (5) 6:9;61:10;66:13; 100:18;143:22
nearly (1) 60:25	nicely (1) 57:22	notify (1) 111:4	OCC (1) 127:6	Official (2) 131:1;175:18
necessarily (12) 5:22;8:9,19;83:5; 105:22;106:6;107:8, 14;113:17;117:12; 164:18;179:23	night (7) 8:6;9:9;12:19;46:4; 53:11;75:19;92:21	notion (2) 8:14;71:1	occasions (1) 142:23	officials (1) 144:4
necessary (3) 27:12;121:3;127:10	nine (28) 44:5,6;78:13,18; 80:12,13;81:11,11,12, 12,14,15,17,22,25; 82:2,4,5,20,20,21;88:8, 18;91:24;92:8;94:5,7; 163:13	November (3) 51:9;61:25;89:4	occur (4) 40:14;70:10;122:15, 15	offline (1) 14:7
need (24) 9:11;10:10;15:17; 19:8;34:19;36:23; 47:25;48:3;50:16; 51:23;53:6;80:11;92:1; 109:5;115:14;119:1; 127:18;128:19;154:7; 168:14;169:1;171:7; 172:3;181:5	Ninth (7) 65:3,13;67:14;69:4; 89:4,24;113:5	nowhere (2) 133:15;143:22	occurrences (1) 88:15	offset (7) 8:12;96:19;97:7; 99:5;107:2,18;113:10
needed (1) 174:12	nobody (3) 9:1;64:25;108:25	number (53) 7:15,16;15:16;26:17, 18;27:5;31:18;32:10; 47:4;59:1,8;62:12; 63:17;64:20;76:7; 78:10;81:8;84:4,6,9, 14;86:7,15;88:4;90:7, 8,8,11;91:7,20;96:3,4; 102:15,17;103:8,21,23; 108:14;119:14;135:24; 136:11,12;140:9; 147:5;151:8,9,10,19; 152:16;153:15;165:21, 22;177:8	October (24) 40:12;59:10;76:12; 78:13;79:1,24;80:3; 84:13,17,21;86:8,17, 17,18,20;87:7,15; 88:19,25;94:8;115:3; 116:6;135:11;163:18	offsets (1) 125:2
Needless (1) 13:13	noise (1) 89:13	numbers (2) 27:18;168:12	o'clock (2) 54:24;121:8	Offshore (1) 92:22
needs (11) 42:21;47:23;52:14; 67:15,15;101:8;108:1; 122:5;127:7;139:16; 176:10	nonaccepting (1) 64:23	numerator (3) 76:20;83:1;93:8	oddly (1) 6:1	often (2) 83:16;185:7
negatives (1) 48:18	nonconsensual (3) 65:1;67:2,12	numerical (1) 104:19	odds (1) 162:3	old (2) 5:18;171:15
neglect (1) 36:10	nondebtor (5) 65:18;66:12,25; 97:22;113:6	NYSE (2) 104:5;108:23	off (12) 8:18;34:5;45:18; 51:14;54:21;100:2;	once (19) 21:23;50:2,4;58:4; 71:22;77:11;78:15; 81:7;84:2;87:25; 105:17;150:17,18; 151:18;152:8;167:8; 178:7;183:14;186:7
negligence (2) 170:3,5	nondebtors (4) 65:16;67:3,3,21	O		One (125) 4:6;6:5,9;16:14;10; 18:3,11;19:18,18; 20:23;22:8;26:19,19; 28:8;30:1,13,14;31:18; 33:10;34:12,25;40:2; 41:2,14;44:7,14,18,19; 45:11;47:4,23;48:13; 50:14;58:23;59:4; 63:20,22;67:19,20; 74:3,7,21;75:18;76:5; 78:11;79:1,7,12;80:19; 83:5,6,10;84:18;85:5;
negotiate (3) 95:14;96:2,2	None (9)	oath (1) 168:24		
negotiated (17) 26:12,24,24;27:14; 31:5;33:19,20,21;43:7; 140:14;141:19;153:25;		objected (3) 118:5;135:8;169:9		
		objecting (1) 129:6		

86:15;88:14,15,18; 89:1,19;90:2,12;92:21; 95:2,10,11,19;96:4,16; 97:22;101:4;102:16; 103:6,8;104:22; 105:21;106:21;107:12; 108:16;111:10;113:16; 115:25,25;118:1; 119:8;125:20;129:11; 130:1;131:13;134:17; 135:8,14;136:17; 138:7;142:5,12; 143:19;148:17;150:1, 1,2,4,11;152:7,7;158:3, 12;159:25;160:21; 161:22;162:3;164:10; 165:21;166:8;173:11, 16,25;174:2,5,12,18; 177:15;179:7;180:14, 14;183:25 one-liner (1) 124:23 ones (4) 42:23;156:3,3; 160:25 one's (2) 151:8,8 one-sentence (2) 43:16;124:9 ongoing (4) 78:7,22;88:15;95:17 only (30) 8:15;12:6;13:1;41:2; 43:2;44:18;48:19; 49:17;59:5;65:10; 70:17;71:12;72:13,23; 77:15;80:11;83:14; 88:13;112:19;115:25; 129:2;146:24;152:7; 155:12;160:6,25; 165:15;171:2;174:12; 175:3 onset (1) 110:23 on-the-record-kind (1) 176:17 onto (1) 71:22 oOo- (1) 4:2 open (11) 4:16;17:15;18:4; 20:4,5,10;25:1;87:21; 121:6;183:5,12 opened (1) 89:7 opening (7) 64:7,19;65:6;84:13; 96:18;115:2;142:16 operates (1) 30:22 operative (1) 100:13 opined (1) 102:16 opinion (2) 38:9;134:24 opportunity (7) 8:24;13:23,24;25:3; 168:1;184:17;186:5 oppose (3) 63:24;154:22,23 opposed (2) 154:13;155:6 opposing (1) 40:7 opposition (1) 40:3 optics (1) 110:7 optimal (2) 41:15;42:20 optimistic (1) 93:15 opt-in (1) 65:11 option (7) 71:6;90:11;91:5,16, 17;95:5;104:17 options (3) 90:2,10,12 oral (1) 135:17 order (103) 4:3;15:14;23:9; 26:20;38:9;44:15;47:4; 48:6;51:24,25;53:6; 60:12;67:15,18;93:24; 95:11;112:2;113:7; 118:9;121:21;122:7, 16,21;123:9,23,25; 124:9,18,22;125:6,24, 24;128:10;132:24; 135:24;136:11,12; 137:2;139:18,22; 140:7,22;141:22; 144:6;147:2;148:13, 21,22;151:22,23; 153:5;154:3;156:9; 158:3,20;160:4,6,18; 161:8,10;164:1;165:1; 166:7,12,16;167:6; 168:7;170:3;171:4,7; 172:3,4;174:2,3,13,16, 20;175:4,5,13,25; 176:1,12,13,23;177:1, 11,12,13;179:15; 180:14;183:3,10,14; 184:10,12,14,14;185:4, 6,7,8,15 ordered (1) 133:2 orders (7) 47:20;63:22;124:10; 147:4;174:1,5,11 ordinary (2) 170:3,5 original (2) 107:23;111:5 Orsini (5) 46:15;49:4;174:20, 21;175:11 Orsini's (1) 143:25 Os (5) 61:16;66:17;97:3,5; 101:15 others (12) 9:24;11:8;22:22,24; 25:3;35:10;105:1; 111:25;117:2;125:11; 127:7;162:20 otherwise (7) 105:19;149:4; 153:18;156:18;157:22; 171:16;177:18 ought (1) 127:12 out (74) 5:25;6:14,21,22; 7:13,18,25;9:15;14:14; 16:15,19;17:24;20:9; 21:24;27:1;34:14,24; 38:1;39:6;42:18;44:15; 49:8;54:12;57:19; 58:24;62:17;64:2; 66:22;67:21;75:14; 77:1,2,19;84:2;85:10; 86:4;87:22;88:5;91:24; 92:9;93:3,12;96:4,4; 97:23;98:25;103:18, 19;109:16;111:15; 112:9;114:4,15; 117:23,23;124:13; 126:24;129:7;138:18, 20;139:1;141:2,2; 142:4,9,25;154:4; 159:23;170:15;171:15, 16;175:3;177:6;179:8 outlined (1) 178:8 outset (1) 110:6 outside (9) 61:9;134:19;138:16, 17;139:20;152:3,24; 153:4,24 outspoken (1) 54:1 outstanding (4) 9:7;75:24;84:6; 150:2 over (36) 38:15;48:10;49:20; 58:15,16;59:15;69:21; 75:6;76:25;78:15,17, 19;80:17;84:10;87:25; 91:1;109:8;116:22; 120:14;127:10;128:17; 129:22;141:11,13; 142:6;144:4;147:15; 151:1;157:25;159:21; 165:2;166:20;167:5; 179:14,18;184:18 overall (1) 153:5 overlap (1) 68:13 overlapping (1) 68:12 overloaded (3) 166:23;178:18,19 overruled (2) 104:23;125:25 overruling (1) 105:3 overseeing (1) 143:17 oversight (6) 141:9,11,13;143:15; 173:11,20 overview (1) 148:3 overwhelming (2) 45:8;47:17 overwhelmingly (2) 136:19;137:24 owe (2) 125:4,22 owes (1) 72:2 own (19) 7:3;60:16,19;61:2; 63:7;68:12;69:25; 75:18,21,22;100:8,21; 110:9;126:13;137:18; 141:13;142:21;161:5; 181:18 owned (1) 171:9 owners (1) 42:7 ownership (1) 75:22 owns (1) 149:22 P Pacific (1) 68:10 page (3) 33:25;151:21;153:15 pages (3) 124:15;155:25; 168:10 paid (17) 5:23,24;8:11;34:14; 40:13;41:7;44:17,24; 46:21;97:23;101:19; 139:12,13;147:9; 169:21;174:8;177:6 paint (1) 102:13 palatable (2) 79:11;90:11 panel (4) 35:25;117:23; 127:23;130:11 panicked (1) 180:18 paper (2) 6:20;42:4 papers (5) 20:13;21:5;90:5,9; 96:17 par (2) 104:16;107:20 Parada (18) 8:21;9:18;18:23; 19:1;27:23;34:24; 36:18;54:11;55:21,25; 56:9,23;57:5;62:25; 89:11;127:22;128:1; 186:23 paragraph (10) 15:14;32:5;67:19,20; 168:19,19;170:4; 183:13;184:23,23 paragraphs (2) 183:8;184:24 parallels (1) 106:13 pardon (2) 86:19;106:21 parenthetically (1) 139:10 pari (8) 74:19;75:1;103:1; 107:21;108:4;116:15, 16;117:9 parity (1) 108:3 part (12) 49:5,6;57:3;65:23; 100:14,21;103:16; 110:25;111:21;118:8, 11;129:8 participant (1) 55:16 participants (2) 58:17;62:14 participant's (1) 127:23 participate (4) 104:21,25;105:2; 107:8 participating (2) 51:14;186:24 participation (4) 49:18;72:24;109:17; 119:11 particular (9) 23:3;44:14;48:14; 64:18;66:13;76:11;	
---	--

84:8;104:20;126:8 particularly (7) 20:5;40:10;109:25; 121:2;176:12;179:1; 186:3 Parties (43) 15:8;8;16:6;17:21; 30:15;41:25;42:19; 43:19;45:7;47:13; 48:21;63:22;65:19,20; 66:8;76:13;96:18; 100:1;125:4;131:4; 137:14;140:1;146:23; 147:22;152:14,23; 153:8;17,23;154:1,23; 161:2,18;162:3,6; 163:12;165:18;166:1, 4,17,19;167:1;174:19 parties' (4) 144:16;147:17; 148:24;153:11 partner (5) 22:5;102:6;109:20, 23,24 Partners (2) 104:22;160:13 party (7) 31:5,6;34:14;67:2, 22;104:24;160:8 party's (1) 81:3 Pascuzzi (54) 5:3;9:12,15,16,18, 24;10:2,3,4,17,18; 11:15,17,25;12:7,10, 13,15,18,25;14:24,25; 15:1,4;16:1,5;18:8; 19:4;21:21;23:14;25:5, 21,23,25;26:15,18,22; 27:21,24;28:1,4,6,22; 29:10,17;32:1,9;33:4, 12,18;34:6,13;119:5; 173:8 Pascuzzi's (1) 13:20 pass (1) 11:23 passionately (1) 40:6 passu (8) 74:19;75:1;103:2; 107:21;108:4;116:15, 16;117:9 past (3) 111:24;149:8;154:11 patch (1) 85:12 paths (1) 45:11 patience (2) 109:15;110:3 patient (1) 13:18	Paul (2) 10:3;19:11 pay (2) 8:8;66:22 payers (1) 46:25 paying (6) 8:14;40:11;99:20; 139:14;140:18;169:24 payment (19) 30:23;40:13;41:7,8; 48:25;97:13,18,19; 98:16,18,20;99:22; 100:20;101:6,7;135:9; 139:8;165:23,25 payments (5) 40:21;46:20;96:24; 101:14;138:18 pen (1) 168:12 pencil (1) 121:1 pendency (1) 175:5 pending (5) 17:9;58:11;60:7; 61:24;62:5 Pension (3) 11:7;112:20;146:5 people (28) 5:20;9:16;22:9;24:4; 54:1;78:8,8;80:18; 82:4;86:16,17,17;92:4, 11;94:9;113:19; 115:17;123:21;124:12; 126:25;142:4;160:14; 167:18;169:9;175:9; 181:2,4;182:14 People's (1) 47:10 per (3) 91:23,24;92:12 PERA (23) 4:18;58:9,10,13,13, 15,24;59:7;60:2,4,10, 11,16,17,19,21;61:5; 65:19;68:20;72:2; 107:10;112:7,11 PERA's (9) 58:17,23;59:7,11,16, 25;61:2;62:7;65:14 percent (19) 41:14;42:8;49:17; 51:22;131:9;135:13, 13;137:24;141:7; 149:14;150:1,1,2,4,4; 152:4;171:25;179:17, 20 percentage (2) 171:8,12 perfectly (3) 12:22;91:8;173:14 perform (2)	30:23;181:2 perhaps (8) 16:8;24:4;82:22; 112:3;116:4;168:11; 176:10;178:20 period (36) 5:21;59:12,14;62:1; 68:8,16;78:19;80:17, 18;84:10,24,25;86:14, 16;87:12;88:11,21,23; 89:7;90:12,15,19,25; 91:1,13;92:14;94:14, 16;95:15;113:12,15; 115:20;121:15,17; 147:14;150:6 periods (1) 150:6 permanent (1) 66:6 permanently (1) 66:1 permissible (2) 87:11;91:18 permission (2) 55:15;62:9 permit (2) 40:24;167:24 permits (1) 42:17 permitted (1) 104:21 person (6) 5:19;35:1;55:22; 56:22;92:5;126:19 personal (3) 96:1;133:11;142:21 personally (1) 124:25 personnel (1) 68:12 perspective (8) 10:19;65:14,15;66:9; 67:17;74:12;75:13; 120:16 pertinent (1) 65:23 petition (24) 6:14;75:16;76:13,19; 77:1;78:3,23;79:2,11; 81:14,20;82:21;83:16; 84:16;90:6,6,21,23; 94:6;103:17,24; 114:15,17;115:3 PG&E (44) 6:8,9,17;20:18,25; 59:12,14;64:2;68:13, 14;74:16;75:13,19,21, 23;83:19;84:18;87:20; 88:13;100:9;104:3; 113:9;132:21,21; 134:7,8;136:22;139:6, 12,12;142:23;143:2,9, 13,17,19,24;144:10,14;	145:8;146:2;151:13; 153:16;170:4 PG&E's (3) 134:10;143:4;144:4 Phoenix (1) 188:13 phonetic (5) 54:24;83:7;95:23; 101:16;127:24 physically (1) 178:24 pick (4) 69:20;85:25;89:12; 94:6 picked (1) 78:6 picking (1) 37:11 picture (2) 102:13;110:24 pie (5) 76:1;87:20,21;88:3, 18 piece (4) 16:25;61:19;76:1; 106:16 pieces (3) 62:10;64:20;107:1 pin (1) 95:24 Pitre (6) 39:21;43:15;153:9; 160:22;164:13;165:10 Pitre's (1) 43:13 pivot (2) 114:14;116:11 pivoted (3) 114:16,21;115:15 place (8) 43:12;72:23;110:16; 112:25;132:9;144:16, 18,19 placed (2) 149:5;182:11 plain (1) 70:16 plaintiff (15) 58:10;59:25;60:3,6, 9,12,20,22;86:25;87:1, 3;99:25;101:16; 112:11,17 plaintiffs (8) 55:8;61:12;65:19; 81:17,22;112:17; 131:11;172:7 plaintiffs' (2) 141:6;171:5 plaintiff's (1) 144:12 plan (195) 9:21;10:23;11:4; 15:11;16:20;21:9,11,	11,14,17;23:5,8,9;27:4; 40:4,15,20;41:11,14, 15,17,21;42:2,4,10,12, 15,17;43:6;44:15,18, 19;45:10,25;46:4,5,18, 24;47:3,4,18;48:4,6,22; 49:23;51:18,20;52:1,3; 55:12;58:23;59:4;61:2; 63:20,24;64:1,4,8,10, 14,15,19,24,25;65:4,8, 10,17,22;66:17,24; 67:14,14,22;68:1,5,9; 69:6;70:3,4;72:5,7,8, 11,11,14;74:14,17,21; 76:8,8,9;78:14;83:10; 84:14;86:8;87:6;88:12; 91:10,18;94:21,21,23; 95:18;96:20;97:12; 102:10,10,12,21,24; 103:3,5,8,10;106:12, 13,24;107:5,10;110:16, 20;111:8,20;112:2,22; 113:2;115:23;116:2,3, 5,7;117:1,3,13;121:10, 25;122:13;123:23,25; 125:21,25;131:5; 132:7,17;133:17,20,23; 134:3,3,4,8,23;136:20; 137:12,21;140:24,24; 141:15,21;142:13,19; 143:5;144:10,19; 146:7;148:14,17; 151:22,24,25;152:5; 154:6,21;155:12,13,17; 156:9,19;157:10,15,22; 160:15,15;164:15,17; 167:1;169:12;171:5,6; 174:10;175:5;176:22; 183:10;185:8 planas (1) 96:22 planned (1) 104:14 plans (1) 55:17 plausible (1) 98:11 play (3) 11:14;17:6;35:11 played (1) 91:24 player (1) 59:17 players (1) 50:16 playing (3) 6:18,24;43:19 plead (1) 114:21 pleadings (2) 64:6;112:9 please (19) 19:3,6;27:24;36:18,
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25;37:8;55:2,4;56:23; 89:2;128:1;130:6,25; 157:1;164:11;166:24; 170:1;173:3;183:18	posed (1) 145:5	126:1	84:8,12,13,23,24;85:1; 86:11,20;87:25;89:4,5, 24;90:7,17,24;91:2,6,7, 10,12;93:16;94:13; 113:11	Procedures (3) 9:9;15:21;26:3
pleasure (8) 16:11;28:16,18; 120:3,5;127:4;128:11, 22	posited (1) 80:4	preferred (1) 165:20	prices (1) 80:20	proceed (1) 127:10
plug (3) 92:20;93:16;144:6	position (18) 38:13,16;66:10; 99:10,19,20;101:17; 120:16;131:10;167:17; 170:2;175:7,19;176:4, 22;177:21;182:6,8	preliminary (2) 179:19;181:25	primarily (1) 60:16	proceeding (1) 21:2
plus (7) 84:10;108:15;135:4; 138:15;144:19,19; 177:8	possessions (1) 42:24	prepare (1) 124:22	primary (1) 48:24	proceedings (3) 120:24;187:8;188:4
pods (1) 89:20	possibility (1) 115:1	prepared (9) 12:23;20:3;39:22; 40:24;127:17;128:14; 129:12;172:20;181:15	Prime (3) 179:13,14,18	proceeds (3) 96:20,21;98:12
point (65) 5:10;11:22;13:24; 14:10;18:11;22:6;25:7; 26:12;27:1,5;32:2; 33:3,12;35:17;51:20; 53:20;54:5;58:4;63:23; 76:14;78:2,16;79:21; 82:14;83:10;84:2; 94:14;100:3,23;101:3; 102:5,6;111:15,16; 114:16;116:10,11; 123:3;124:23;125:8, 10;126:2,8;134:21; 135:19,20;139:9; 147:24;149:3;152:6; 154:4;164:18,20; 167:24;170:15;171:13, 24;173:9;175:3; 178:23;181:14,16,21; 183:23,24	possible (7) 79:23;121:24,25; 122:1;123:23;143:9; 158:16	pre-petition (1) 66:16	primes (1) 146:9	process (10) 16:17;24:5;43:3; 44:8,11;46:20;47:11; 111:4;122:11;141:12
pointed (3) 58:24;112:9;175:3	possibly (3) 22:7;79:3;155:21	prerequisite (1) 94:21	principal (4) 50:15;63:19;186:3, 12	processing (1) 33:15
pointer (1) 88:22	pot (3) 75:6,7;138:16	presence (1) 100:6	principle (2) 100:2,12	produced (1) 132:20
points (7) 32:22;52:11;102:3; 148:4;149:2;183:5,23	potential (2) 79:10;105:16	present (3) 55:17;129:1;158:6	print (1) 159:23	producing (1) 166:15
pole (2) 132:21;142:24	potentially (3) 23:6;67:23;93:13	presentation (10) 25:22;57:23;58:5; 83:24;117:19;129:1; 131:13;159:8;169:4; 178:15	prior (6) 51:24;89:2;94:20; 95:23;118:9;158:20	product (2) 50:15;184:6
police (1) 58:18	power (4) 20:19;23:15;42:25; 152:13	presented (6) 87:19;101:3;157:12; 159:1,18;173:7	priorities (3) 180:19;182:15,15	productive (1) 186:14
policies (15) 96:21,22,24,24;97:2, 6;99:11,14,14,16; 101:9,12;134:11; 139:4;174:24	PowerPoint (12) 54:20;55:15;129:1; 130:5;139:19;140:7; 146:13,19;147:20; 159:21;165:5;169:6	presenting (1) 5:15	priority (10) 69:14,20,22;71:25; 73:22;74:23;102:25; 105:24;106:8;157:6	professional (3) 139:21;169:19; 177:16
policy (7) 97:11,16,18;100:9; 101:6,8;134:5	powers (1) 23:15	presently (1) 59:19	pro (7) 74:19;75:10;76:2; 81:18;104:24;107:21; 166:3	professionals (6) 134:20;152:1,3,25; 153:25;165:7
pool (1) 139:16	practically (1) 46:23	preserve (1) 149:2	probably (26) 4:20;17:8;26:6,19; 54:6;74:4;93:16;95:4, 24;96:12;97:15; 101:23;103:16;104:1; 105:11;125:21;126:19; 127:16;128:20;129:21; 135:12;136:5;171:1; 178:1;180:25;182:7	professionals' (1) 153:5
popular (1) 111:12	practice (1) 74:25	preserved (1) 148:25	probation (1) 143:9	program (3) 44:9;143:5,24
Porter (1) 37:5	preaching (1) 168:23	preserves (1) 169:12	problem (21) 8:5;9:5;21:16;22:1; 33:14,15;34:2,14; 57:10;62:25;66:9; 75:11,12;83:18,20; 84:3;88:2;94:2,96:1; 109:1;158:20	Programs (1) 86:23
portion (2) 98:11;138:22	preceding (1) 88:18	presiding (4) 4:5;51:23;52:13; 124:14	promises (2) 42:13;149:7	progress (4) 5:5;38:10,22;44:1
	precision (1) 64:16	pressure (1) 124:6	prompt (1) 48:25	prohibition (1) 67:12
	precludes (1) 113:5	presumably (4) 50:13,17;81:18;82:6	promptly (1) 40:11	promise (1) 39:22
	predicate (1) 170:22	presume (2) 49:3;120:4	pronouncements (1) 132:1	promised (1) 8:23
	predicted (1) 135:10	presumes (1) 96:5	proof (8) 58:24;59:8,11;68:20, 23,23;98:2;144:11	promises (2) 42:13;149:7
	prediction (2) 163:18,23	pretend (2) 31:14;52:11	problems (8) 5:25;22:14;64:5; 85:24;111:17;117:13, 14;129:12	prompt (1) 48:25
	predominantly (1) 65:14	pretty (8) 19:25;51:21;52:5; 64:11;88:25;96:14; 111:14;178:4	procedural (1) 49:9	promptly (1) 40:11
	prefer (3) 117:4;150:22;184:9	previous (1) 47:23	procedure (1) 63:15	proper (4) 12:22;92:8;174:15; 180:6
	preferable (1) 168:2	previously (2) 66:10;111:17		properly (1) 170:21
	preferably (1) 124:1	price (30) 5:22;59:15;68:14; 78:14,16;80:23;83:15;		property (4)
	preference (1)			

8:4;66:3;20;133:12 proponent (1) 124:9 proponents (34) 8:9;41:22;58:23; 59:4;64:19;69:7;70:4; 74:17,21;76:8;78:14; 83:11;84:14;86:8; 88:12;91:10;93:22; 94:23;95:18;102:13; 107:10;112:23;116:2; 117:4;128:9;134:23; 152:1,24;154:22; 160:15,15;168:25; 172:7;174:10 proponents' (2) 64:8;152:5 proponent's (4) 87:6;104:14;115:23; 116:5 proportion (2) 108:6,7 proportional (1) 76:1 proportionate (1) 107:19 proposal (4) 12:1;17:23;133:8; 176:7 proposals (1) 14:13 propose (4) 64:13;147:2;148:13; 151:13 proposed (15) 12:19;13:8;25:4; 61:22;73:6;76:7,8; 79:7;93:1;107:13; 119:8,17;132:17; 160:5;171:3 proposing (1) 167:1 prosecutor (1) 181:18 prospect (1) 70:16 prospective (1) 175:18 protect (4) 41:19;42:2;47:13; 61:1 protecting (1) 143:23 protection (1) 137:6 protections (3) 27:2;141:20;143:18 protects (2) 43:6;78:7 proud (1) 143:4 prove (3) 6:8;92:5;112:24	provide (15) 29:15;30:20;48:7,25; 96:23;97:2,3,4,6;99:15, 16;101:9;104:25; 157:18;173:12 provided (7) 104:7;107:19; 113:10;133:17;134:4; 136:23;141:5 provides (9) 30:22;58:15;74:14; 97:16;122:14,23; 123:2;131:5;141:8 providing (2) 133:18,24 provision (7) 18:1;43:16;113:4; 162:15,15;172:8,15 provisions (10) 11:2;20:6;21:10,15, 17;23:5,11;106:18; 124:18;157:11 proxy (1) 75:8 PSLRA (1) 60:13 PSP (1) 126:10 PSPS (10) 138:5;142:25;143:3, 20,23,24,25;144:1,6; 145:16 public (10) 43:4;58:7,14,19; 59:12;61:13,17,24; 141:2;151:3 publicly (2) 41:23;75:14 public's (1) 43:8 PUC (3) 144:4;145:1,4 PUCs (1) 144:2 PUC's (2) 144:19;145:17 pulled (1) 87:22 pulling (1) 144:6 purchase (7) 68:5,7;70:18,19; 74:8;80:1;105:24 purchased (3) 49:7;68:15;94:9 purchasers (3) 61:22,24;113:14 purchases (4) 59:13;81:4;110:14; 115:20 pure (1) 100:19 purely (2)	65:11;92:16 purport (1) 21:11 purpose (4) 69:13;86:5;91:20; 156:2 purposes (5) 59:18;115:6;121:13; 122:6;157:15 Purro's (1) 101:16 pursuant (2) 60:13;165:4 pursue (1) 169:22 pursuing (1) 65:20 pussycat (1) 115:10 put (38) 5:10;7:4,15;8:24; 19:14,15;24:22;25:16, 20;36:1;39:6;50:18; 56:24;57:18,19;63:9; 67:25;72:18;88:16; 102:8;104:19;108:8; 118:9;124:6;140:6,14; 149:7;157:11;158:22; 160:18;161:1;162:10; 163:13;166:6,15; 180:20;185:17;186:20 putative (1) 112:15 puts (2) 73:22;88:18 putting (4) 34:4;42:1;124:13; 133:3	quite (6) 21:16;59:16;62:4,4; 74:2;96:13 quo (1) 166:3 quote (12) 60:2;65:7,9,10,11; 66:2,8;87:10,12; 107:11;114:15;165:5 quotes (2) 148:6;160:4 R raise (9) 8:24;18:13;25:13; 121:18,19,23;124:19; 127:21;173:8 raised (28) 17:16,22;18:17,18, 22;27:18,22;36:8;44:3; 56:17;67:7;111:17; 119:6;123:20,20; 128:24;132:6;136:21; 137:14,22;166:13; 171:21;172:21;173:10; 174:18;179:22;181:10; 182:14 raises (2) 121:13;139:9 raising (5) 9:15;18:24;23:1; 123:21;182:4 rata (5) 74:19;75:10;76:2; 81:18;107:21 rate (2) 46:24;145:24 ratepayers (1) 143:19 rather (2) 22:12;118:10 Rauth (1) 19:12 re (2) 63:5,5 reach (4) 14:7;29:3;91:9; 93:16 reaches (1) 81:7 reaching (1) 34:6 react (1) 114:23 reacted (1) 144:12 reacting (1) 144:20 read (10) 8:5;22:9;32:20;87:5; 92:21;163:1,1;165:3,3; 175:15	reading (3) 72:21;94:18;161:21 Ready (5) 25:24;112:22; 127:14;177:6;181:13 real (15) 21:3;22:21;24:6; 57:15;59:18;81:23; 84:4;88:13;117:6; 125:19;127:1;152:9; 184:14,14;185:15 reality (4) 43:1;69:23;78:18; 96:10 realize (3) 101:21;114:18; 167:17 realized (1) 77:16 really (22) 8:3;14:21;19:21; 23:1;28:23;39:2;49:3, 4;67:16;77:13;79:13; 84:7;86:10;92:7; 101:15;102:1,19; 134:21;141:20;151:6; 166:22;180:19 reargue (1) 11:19 reason (9) 19:19;80:4;82:15; 121:16;149:3;154:10; 169:17;173:6;181:1 reasonable (12) 34:9;87:15;147:10; 148:10;151:11,16; 153:23;157:19,23; 165:7;174:14;176:24 reasonably (2) 151:25;153:18 reasoned (1) 184:9 reasoning (1) 125:23 reasons (4) 111:18;165:19; 166:6;180:11 Rebecca (1) 37:22 rebuilding (1) 47:11 recall (10) 16:2,23;43:15;52:23; 95:23;138:14;147:19, 19;153:7;174:1 recap (3) 14:20;86:5;113:1 recapitalized (2) 145:14,16 receive (4) 29:16;74:15;87:2; 106:21 received (6)
		Q		
		qualifier (1) 66:5 qualify (1) 106:20 quarterly (1) 126:13 quarters (1) 147:15 quick (3) 10:21;104:12;180:8 quickly (9) 40:9,22;58:13;86:5; 121:24,25;122:1; 176:11;187:3 quid (1) 166:3 quiet (1) 35:2 quirky (1) 57:15 quit (1) 113:18		

38:25;87:3;97:10; 104:8;132:13;139:18 receiving (5) 103:25;104:1; 107:20;138:22;162:16 recent (2) 143:11,25 recently (1) 137:14 recess (4) 4:20;55:1;85:8,15 recite (1) 177:12 recognize (6) 8:25;35:1,1;63:25; 90:21;117:15 recognized (1) 111:1 recommend (1) 160:2 recommendation (2) 151:17;152:8 recommendations (4) 151:18;152:17; 153:2,3 recommended (1) 151:11 reconnect (1) 85:9 record (16) 37:1;62:11;63:8,9; 102:17;112:4;128:2; 130:15;163:9;169:12; 172:17,18;177:17; 180:17;182:12;188:4 recording (3) 63:7;85:6,16 recover (2) 86:25;139:12 recoveries (5) 8:2;76:9;106:9; 117:6;150:19 recovery (5) 70:6;74:18,19; 107:21;149:5 reduce (2) 169:23;171:11 reduced (1) 106:7 reducing (1) 171:11 reduction (1) 46:7 refer (1) 27:15 reference (5) 68:19,21;72:14; 73:20;133:2 referred (1) 58:9 refers (2) 29:17;165:20 reflect (3)	25:3;38:9;78:16 reflected (5) 8:6;78:16;87:25; 148:4;185:4 reflecting (1) 184:1 reflection (1) 115:15 reflects (1) 88:17 refusal (1) 41:22 regard (8) 10:23;15:12,18; 22:24;38:10;112:5; 142:11,16 regarding (8) 21:1;23:9,14;32:24; 40:17;41:12;58:23; 110:15 regardless (2) 115:22;180:22 regards (2) 96:15;186:16 registered (1) 149:16 registration (52) 40:5;43:4,5,12,13; 47:7;52:3;53:6;131:6; 19;132:11;135:8; 136:23;137:3,4; 139:24;140:4,8,22; 145:9;146:20,23; 147:12,18,22;148:24; 149:17;150:22;151:1, 7,13,16;152:17;153:8, 10,17,23;155:9,18; 156:13,20;157:5,8,14, 19;161:5,18;164:4; 165:7,11;166:15; 178:10 regroup (1) 4:21 re-hook (1) 143:3 reinstated (5) 75:12,18;83:14,14, 15 reiterate (1) 178:7 reject (5) 64:24;102:21;111:8; 125:22;157:17 rejected (5) 102:10,15;104:14; 119:19;133:6 rejecting (1) 105:3 rejection (2) 102:12,14 rejoin (1) 85:6 related (2)	32:9;152:22 relating (2) 41:25;151:23 relationship (1) 100:15 relative (2) 43:17;79:20 relatively (2) 84:11;120:22 release (26) 21:15;23:6;26:7,8,8; 29:17,21,22,25;30:7, 15;31:4,11;32:13,14; 34:1,1,13;65:12;67:2, 25;113:5;173:13; 177:2,13,15 releases (11) 26:10,23;27:12,14; 30:13;31:6;33:20;65:2, 8,10;67:12 releasing (4) 15:7,8;23:12,12 relevance (1) 87:13 relevancy (1) 118:5 relevant (1) 112:14 reliant (1) 144:25 relief (6) 20:22,25;23:11;98:7; 132:12,19 rely (1) 12:23 remains (5) 40:16;41:11;60:11, 21;126:5 remarks (5) 39:22;40:24;55:13, 14;178:6 remedy (1) 70:1 remember (5) 20:8;50:2;134:14; 142:1;181:11 reminded (1) 176:10 remote (1) 63:15 remove (1) 34:24 removed (1) 103:14 render (1) 67:3 renters (1) 42:6 reorganization (1) 42:12 reorganize (2) 104:3;107:11 reorganized (8)	66:3,21,21;67:24; 74:16;113:9;153:15; 161:17 repeatedly (1) 142:12 report (8) 38:7;108:25;137:18; 180:1,6;181:13,24,25 reported (4) 49:16;83:11;109:2; 145:25 reporting (1) 126:13 represent (6) 25:12;112:7;130:17; 141:7,10;152:3 representations (2) 87:2;177:4 representatives (5) 144:2;170:13,15,18, 20 representing (1) 40:2 represents (5) 18:12;41:2;131:23; 142:6;181:22 reputation (1) 136:5 request (7) 43:14;122:22;133:6; 140:6;147:5;171:3; 178:9 requested (8) 9:7;22:1;169:7; 174:1;175:10,12; 179:15;182:1 requests (1) 180:6 require (5) 28:7;43:16;47:5; 100:8;126:25 required (5) 29:15;33:8;41:20; 157:8;162:19 requirement (6) 34:9;145:11;152:7; 153:8,22;157:14 requirements (7) 102:22;116:18; 145:12;151:6;152:6; 157:9,13 requires (3) 31:17;147:14;162:14 requisite (1) 152:1 res (1) 27:16 rescission (9) 68:4,6;72:12;73:2, 21;110:8;112:16; 116:14,17 reserve (4) 15:14,16;38:22;	152:25 reserved (2) 15:12;120:7 reserves (2) 177:6,10 resistance (1) 177:24 resolution (7) 14:7;15:21;26:3; 38:16;156:17;168:2; 178:23 resolutions (1) 16:22 resolve (15) 13:3;14:8;38:12; 110:15;112:23;117:16; 119:3,18;138:10; 157:24;159:25;160:12, 12,17,17 resolved (38) 4:17;10:19,19,25; 11:10,11;14:1;15:4,6,9, 11;16:21,25;17:3; 20:13;25:1;35:4;94:22, 25;112:1;119:2,7,9,10, 16,17,22;120:12; 138:22;156:8;158:15; 164:18;175:24;183:6, 8,17,20;185:3 resolving (1) 23:2 respect (31) 9:6;16:1,20;18:14; 21:22;31:6;33:9;40:9; 43:10;44:3;59:17;62:7; 63:20;66:8;80:24; 102:11,18;106:25; 107:1,7;110:3,4,8,21; 113:1;116:25;120:11; 140:22;142:18;155:4; 178:10 respond (5) 8:19;39:10;137:11; 176:15;181:5 responded (3) 12:1;143:13;169:10 response (16) 12:21;13:2;51:17; 58:25;120:19,22; 121:7;128:13;141:24; 152:5;160:1;165:15; 179:22;180:10;181:8,9 responses (1) 180:9 responsibility (1) 57:4 rest (4) 86:2;88:14;120:4; 183:20 restricted (3) 51:10;149:14,16 restrictions (3) 43:17;48:7,17
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restrictive (1) 149:22 result (7) 7:17;48:22;70:5; 75:18;78:4;138:20; 157:5 resulted (3) 133:11;135:9;139:1 results (5) 42:1,5;45:3;117:9; 170:16 resume (3) 63:11;85:8;185:25 retail (1) 20:18 retain (1) 31:1 retaining (1) 103:9 retention (1) 15:10 retirees (1) 58:16 Retirement (3) 58:8,14;61:13 revenue (2) 146:3,4 reverse (2) 128:10;183:3 reverse- (1) 86:9 review (5) 13:7,23;39:2;179:12; 187:4 reviewed (1) 162:13 reviewing (1) 11:6 revise (1) 119:18 revised (3) 13:8;21:23;39:1 revision (1) 119:9 revisions (5) 12:19;13:1;38:8,11; 119:8 rhetorical (1) 135:14 Richardson (2) 171:21;174:21 Richardson's (1) 168:15 right (84) 5:14;6:4;9:22;10:6,9; 17:12;12:18;2;19:15; 20:20;25:18;28:5;32:2; 34:21;37:16;45:23; 50:11,24;52:18,24; 53:14;54:11;55:21; 56:23;57:19;59:20; 72:22;79:2,3;82:24; 83:6;85:17;90:7;92:12;	93:24;96:10;100:20; 101:6;103:23;104:16, 16;105:19;108:21; 109:1,3;111:12;114:4; 118:21;124:16;126:11; 129:13,24;130:2,9,14, 19;134:9;137:2; 139:25;140:15,23; 144:13;145:24;146:13, 18;150:21;153:11; 154:5;157:3;159:7; 160:7;161:14;162:2; 164:9,21;165:4; 168:14;170:8,10; 171:12,18;186:12,17, 22 rightly (1) 114:8 rights (139) 15:12,14,16;23:16; 31:1;40:5;43:4,5,6,12, 13;47:7;48:7;50:11,24; 51:18,25;52:3,8,21; 53:6;60:23;61:1,2; 104:2,3,5,14,19,25; 105:4,5,20;106:19,21, 25;107:3,7,8,25;108:1, 12,13,15,22;111:1; 116:8,12;131:6,7,12, 19;132:11;134:4,4,5, 10,12;135:8;136:23; 137:3,5;139:3,14,21, 24;140:3,4,8,21,22; 145:9,9;146:20,24,25; 147:12,18,23;148:25, 25;149:17;150:22; 151:1,7,14,16;152:14, 17,18,19,22,25;153:5, 8,10,17,23,24;154:1,4, 23;156:13,21;157:5,8, 14,16,19,20,20,25; 160:20,24;161:5,9,18; 162:6;163:11;164:2,3, 4,15;165:1,7,11,12; 166:4,15,17;168:24; 174:24,25;175:24; 177:9;178:10,13; 185:9,9 risk (27) 41:16,21;45:8;46:8; 47:17;48:24;50:20,22, 23;51:4,5,6,11;138:5,8; 142:13,14,18;143:15; 144:23,23,24,24;146:8; 149:5;183:15;185:24 risks (1) 47:13 River (1) 37:24 road (3) 67:9,22;70:8 Robert (2) 128:3;130:25	rode (2) 77:20;92:11 rodeo (1) 150:14 role (5) 59:7,25;60:20; 106:19;167:19 room (7) 9:19;19:2;43:8; 55:20;109:17;130:6; 144:2 Rose (1) 37:23 rounding (1) 84:9 RSA (50) 131:7;132:6;133:5, 19;136:13,13,17;137:3, 22;138:12,17;139:20; 140:14,14,23;141:5,17; 146:22;148:4,4,9,25; 149:3;151:6,8,8,15,20, 21;152:6,11,12,19,21, 23;157:12,22;159:5; 160:4,5;164:3;165:1,6; 166:8,18;168:6; 170:16;174:1,14; 178:11 RSA's (1) 140:9 rubrics (1) 81:1 rude (1) 186:9 Rudnick (2) 28:19;33:22 Rule (16) 60:15;87:12;99:6; 102:25;112:14;122:23, 23;123:1,2;140:10; 149:20,22;150:4; 155:11;160:24,25 Rules (6) 9:8;101:13,13; 102:24;147:13;155:19 ruling (7) 98:21;118:11; 144:13;167:16;172:18; 173:18;182:22 rulings (5) 132:2,6,9,15;178:8 run (6) 79:17;81:4;129:22; 143:1;158:20;177:22 running (1) 54:22 S safe (3) 145:13;183:9,11 safeguarded (1) 42:9	safeguarding (1) 60:23 safety (3) 46:14;145:15;168:5 sake (1) 168:13 sale (3) 70:18,19;149:18 sales (2) 42:18;81:4 same (54) 6:21,22;7:22;20:6; 25:15;28:12,22;30:15; 31:1;33:14;37:3,7,8; 38:20;40:11;43:18; 44:17;45:15;67:1; 69:20,22;71:3;73:22; 74:23;77:7,19,21,22; 78:1;79:18;81:14;82:2, 3,7,8,10,23;88:17; 100:3;103:20,20,22,24; 105:18,24;111:14; 112:13;153:25;157:10; 160:24;163:23;165:12; 166:4;172:5 SAN (6) 4:1;18:12;19:12; 22:24;121:8;133:10 sand (1) 138:18 Sandler (2) 55:7;58:7 sat (1) 134:18 satisfied (2) 157:15;184:13 satisfies (1) 185:16 satisfy (3) 101:24;102:25;107:6 satisfying (1) 102:23 Saturday (1) 185:23 sauce (2) 147:25,25 saw (1) 10:19 saying (11) 9:21,21;24:8;44:1; 49:22;50:7;100:12; 108:2,4;134:14;146:23 Scarpulla (1) 46:6 scenario (2) 71:19;108:18 scenes (1) 152:10 schedule (6) 4:17;47:6,9;48:4,7; 59:11 scheduled (1) 5:9	schedules (1) 32:12 Schoenberger (1) 37:10 scope (5) 17:16,23;23:14; 67:21;113:1 screaming (1) 110:21 screen (11) 5:12;8:18;10:10; 13:16;36:17,23;62:13; 63:2;87:18;130:20; 157:11 scuttle (1) 110:19 SDNY (1) 104:23 se (1) 104:24 seasons (1) 48:24 SEC (2) 140:10;147:13 second (27) 19:18;44:3;46:10; 48:6,23;49:5;52:6,21; 59:24;64:15;68:2; 70:25;89:19;93:13; 103:25;106:22;130:1; 132:23;133:7,23; 136:20;139:3;141:23; 153:21;160:17,21; 173:9 secondary (1) 24:19 Secondly (2) 143:6;178:12 seconds (1) 167:3 secret (1) 186:21 Section (15) 10:23;15:11;21:7,23; 22:3;27:9;30:20;33:23; 73:4;74:22;119:7,9; 131:14;151:14;157:10 sections (4) 12:5;26:12;27:5; 30:23 securities (52) 5:8;13:17;14:5;35:7; 55:7;58:11;59:12;60:1, 6,12,21,22;61:3,6,7,13, 14,18,21,24;62:2; 65:17,19,21;66:12,25; 67:20;68:18;78:7,12; 79:16,16;81:1,4;88:6; 92:16;98:13;99:7; 108:9;110:14;113:14; 114:3;126:12,25; 131:11;149:23,23; 170:25;171:4;172:6;
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184:3,24 securitization (2) 145:1,2 security (5) 70:18,19;74:8;95:15; 179:2 security's (1) 127:2 Sedwick (2) 44:4;53:24 seek (1) 30:24 seeking (2) 20:17;60:8 seem (6) 16:17;74:24;83:6; 85:17;93:21;185:5 seemingly (1) 79:24 seems (9) 7:2;8:13;23:9;34:8; 53:2;69:4;100:5; 101:21;112:4 segment (1) 14:5 select (2) 115:18;180:14 selection (2) 86:21;180:15 selective (1) 110:16 self-appointed (1) 60:2 sell (8) 41:24;51:11;87:16; 149:24;150:1,16,17; 163:14 selling (3) 77:22,25;147:14 sell-off (1) 51:6 semi-facetious (1) 124:21 send (2) 13:8;186:16 sending (2) 14:13,14 senior (1) 33:16 sense (8) 90:20;114:14; 115:16;121:5;127:17; 129:6;165:23;180:10 sensitive (1) 184:4 sent (10) 11:5;12:17;18:15; 21:24;22:17;24:9; 49:14,15;119:19;142:9 sentence (6) 67:20;95:11;160:19; 161:22;165:9;171:20 sentences (7)	160:3,4,18;165:5; 166:7,16;168:6 separate (10) 68:16,19;69:17,19, 24;71:21,24;79:13; 80:5,6 September (5) 132:17;135:11; 138:2;140:20;141:15 series (2) 88:16;90:3 seriously (1) 159:3 service (2) 85:18;181:2 session (2) 4:4;121:2 set (11) 44:21;46:25;47:5; 61:4;62:9;101:11; 136:12;151:18;157:9, 21;185:13 setoff (1) 169:15 sets (2) 53:17;82:1 setting (1) 167:20 settle (2) 132:14;133:8 settled (5) 49:13,14;133:21; 155:7;177:8 settlement (45) 26:9,10,15,16,20; 27:15,17;28:7;32:5; 33:23,24;34:11; 114:10;131:8;133:9; 135:6,9,21;136:18,18; 137:4,22,23;140:10; 141:17,19;148:9; 149:4;163:19,20,21,23; 166:8;172:23;173:1,9; 174:2,6,7,13,14;175:4; 176:24;177:5;178:11 settlements (2) 16:3;172:22 seven (9) 88:13;128:24;132:8; 136:12,15;137:7; 147:4,7;178:8 seventh (1) 137:13 seventy (4) 5:23;31:19;141:7; 152:4 seventy-one (1) 84:25 several (9) 9:16;60:6;65:25; 112:9;113:11;117:10; 133:17;135:17;181:4 shall (5)	14:18;48:6;151:24; 153:18;177:13 shame (1) 49:19 share (15) 5:12,13;6:2,11; 62:12,22;81:18;84:16, 18;91:6,7,10;92:12; 95:2;129:18 shared (1) 101:6 shareholder (13) 77:5,6;93:22;106:14; 108:9;128:9;134:23; 152:5,24;154:21; 160:14;167:2;174:10 shareholders (21) 7:24;35:18;48:8,12; 49:6,21;51:9;131:6; 136:24;137:5;140:18; 145:10;160:24;161:3, 4,5;163:10;165:12,17, 22;178:13 shares (42) 5:22;6:16;7:8,14,21; 43:17;59:14;74:18; 75:4,19,21,23,24;76:4, 7;78:21;81:9;84:6,9; 86:7;90:8;91:7,21; 94:15,16;96:3,4,10; 103:20,23,23;108:11, 11,12,14,15,18,22; 113:9,25;114:9;150:2 sharing (2) 81:20;139:2 shed (1) 27:23 sheet (4) 139:20;151:20,20; 168:6 sheltered (1) 168:14 shifted (1) 172:10 short (7) 54:6;110:5;127:18; 129:15;141:12;179:5; 183:7 shots (1) 138:12 show (16) 102:24;125:18; 133:19;139:19;140:1, 7;147:20,22;148:21, 22;152:2;159:15; 160:5,25;162:22;164:2 showed (4) 87:20;134:24;144:1; 153:3 shown (1) 110:12 shows (5) 9:1;88:22;146:25;	152:21;164:14 shrift (1) 179:5 sic (3) 12:5;45:14;88:2 side (21) 9:2;28:10;35:17; 54:18;93:23,23;95:19; 97:3,4,6,16,17;99:14, 16,16,16;101:8,12; 149:21;155:13;166:25 Side-A-only (1) 99:14 sight (1) 60:20 sign (19) 26:7;30:6;32:4,4; 33:4,17,25;51:24; 123:8;124:22;125:24; 156:16;158:3;167:3,6; 175:25;176:12;184:13; 185:8 signature (1) 124:13 signed (3) 138:17;176:1;184:15 significance (2) 63:25;110:8 significant (10) 59:17;103:16; 105:11;132:2;133:25; 138:4;183:25;184:25; 185:1,2 significantly (1) 103:12 signing (1) 184:10 similar (9) 30:6,19;45:25;68:9; 72:15;154:1;165:17, 20;178:9 similarly-situated (2) 22:13;165:22 simple (15) 34:10;47:2;48:20; 49:22;67:16,18;73:20; 75:9;82:15;113:6; 160:21;167:14,14; 172:1;173:10 simplest (3) 74:4;94:12;106:7 simplified (1) 7:5 simplify (1) 5:20 simply (23) 17:22,25;67:6,20; 73:1;74:6;75:7,12; 87:12;88:16;91:19; 105:23;107:16;108:24; 150:22;167:13;168:18; 175:2;177:1,12; 178:10;186:8,9	single (4) 40:15;41:10;71:20; 80:18 Siri (1) 7:11 sisters (1) 42:22 sit (3) 83:20;91:8,15 sitting (2) 32:18;103:12 situated (1) 162:21 situation (8) 48:1;69:11;71:1; 75:5;100:17,18; 106:12;185:21 situations (1) 75:4 six (15) 60:8;78:20;86:19; 135:24;136:11;140:11, 16;147:16;149:23; 150:5,8;162:12; 165:13,16;166:2 sixth (1) 137:11 sixty (3) 6:2,21,24 Skikos (32) 36:7,11,21,23,25; 37:2,2;39:7,11,13,16; 43:23,24,24;45:20,24; 50:9,12,25;51:2,6,8; 52:2,5,19,24;53:1,9; 54:9;153:9;160:22; 165:10 Skikos' (1) 43:14 skip (1) 121:6 Slam (1) 152:9 sleep (1) 183:17 slice (1) 87:21 slices (1) 88:5 slide (24) 90:4;149:9,19;151:5; 152:20,21;153:13; 157:1;162:1,12,22; 164:9,10,10,11,24; 169:8;170:1,24; 172:20;173:3,25; 175:20;176:25 slides (4) 62:9;88:3;148:7; 168:9 slight (1) 114:14 slightly (3)
--	---	---	---	--

99:1;102:13;120:1 slip (2) 118:14;124:5 slowly (1) 165:2 small (2) 42:6;83:2 smaller (4) 76:1;83:3;113:20; 114:1 smallest (1) 96:4 smarter (1) 174:19 so-called (2) 139:11;144:6 sold (7) 6:1,2;43:17;78:21; 80:24,25;92:14 Solomon (2) 115:9,9 solution (4) 83:23;94:12;113:16; 168:3 solutions (1) 79:11 solve (3) 94:2;95:25;159:16 solved (2) 35:4;118:25 solvent (2) 75:14;83:13 somebody (9) 22:3;57:1;70:13; 72:2;89:16;93:23,23; 105:19;161:8 somehow (1) 78:3 someone (9) 18:20;92:14;99:18, 21;113:23;154:14; 156:15;161:9;181:17 someone's (2) 6:15;81:2 something's (1) 35:4 sometime (4) 24:25;34:7;70:8; 93:11 sometimes (2) 176:14;184:10 somewhat (3) 83:21;90:10;142:15 somewhere (4) 72:22;77:4;92:1; 185:4 Sonoma (1) 142:22 soon (1) 123:23 sooner (1) 124:14 Sorry (15)	4:8;9:3;12:17;15:1; 19:11;23:8;37:20;57:7; 73:18;85:7,17;109:21; 119:18;120:8;155:14 sort (11) 29:25;30:12;69:9,12; 102:8;105:17;124:11; 174:16;178:24;181:18; 183:2 sound (3) 73:16;166:22;167:14 sounded (1) 87:16 sounds (2) 135:20;178:4 source (1) 100:20 South (1) 19:12 Southern (3) 18:12;162:23,24 speak (14) 4:25;5:2,6,9,17;8:24; 39:20,25;40:3;120:18; 149:7;172:18;181:20; 184:17 SPEAKER (1) 38:24 speakers (1) 54:12 speaking (7) 4:25;12:7;16:24; 21:21;22:23;36:13; 57:6 special (4) 11:2;21:24;106:20; 181:17 specific (10) 22:14;32:3;52:20; 53:11;64:5,13;71:10; 102:18;109:3;111:20 specifically (8) 26:12,24;27:14; 33:19,20;65:7;68:6; 96:23 specificity (1) 28:23 speculative (1) 145:1 speech (2) 169:1,11 speed (1) 164:8 speedy (2) 40:13;41:7 spend (3) 58:21;124:15;135:1 spoke (4) 40:6;111:7;181:4; 182:14 spoken (1) 94:23 spokesman (1)	15:25 spokesperson (1) 54:2 spotted (1) 143:12 staff (1) 186:23 stage (3) 67:6,8;150:18 staged (1) 147:14 stakeholders (1) 83:19 stand (3) 112:22;142:16; 177:16 standard (4) 27:7;145:11;157:18; 166:10 standards (1) 157:21 standpoint (5) 75:21;83:19,20; 108:3,4 stands (2) 69:24;136:5 start (9) 38:2;40:22;88:19; 92:8;129:3;131:4; 149:9;151:12;187:4 started (3) 103:20;132:22;141:3 starting (2) 76:5;121:20 starts (1) 88:3 State (26) 10:4;19:6;26:4,9; 28:12;36:25;37:8,19; 47:9;49:15;52:14; 53:17;55:4;58:15,18; 128:1,7;130:15; 138:15;144:3;145:11; 147:18;154:5;164:23; 171:19;172:4 stated (3) 42:25;75:9;180:17 statement (10) 5:10;23:8;41:4;67:5, 8;102:19;120:23; 127:18;149:11;182:8 statements (4) 47:17;68:11;95:8; 121:16 States (6) 26:4;148:9;149:11; 151:20;153:15;180:12 static (1) 89:12 status (1) 161:9 statute (1) 12:23	statutorily (1) 106:8 stay (14) 20:22,23;35:25; 36:16;63:10;78:8;98:7; 122:24,24;130:20; 132:13,19;182:21; 186:24 staying (1) 36:2 stays (1) 7:7 steadfast (1) 176:8 step (2) 44:17;93:13 Steve (2) 37:2;43:24 stick (2) 28:6;39:6 still (36) 4:16;6:17,18;7:3; 11:6,13,14,23;16:18; 17:6;19:3;20:4,24;11; 35:11,24;38:10;59:19; 19:61;23;62:5;71:23; 75:21;77:5;81:4; 103:22;104:1;119:15; 125:13;155:19;164:15; 175:10;182:10;183:5, 5;185:3;186:7 stipulation (1) 20:23 stock (124) 5:21;6:1,19,24;7:3, 15;8:8;32:24;40:25; 41:12,19,21,24;42:8,9, 18,20;43:3,17;46:14, 19;48:22;50:1;59:14; 68:5,7,15;69:22;74:15, 24;75:15,19,21,23; 76:4;77:22,25;78:13, 15,19;79:3;80:1,12,18, 23;84:7,12,13,13,19, 22,24;85:1;86:11,20; 87:20,22,25;88:5,19, 21,22;89:24;90:7,17, 22,24;91:2,12;92:4,6, 11;93:16;94:13; 100:10;103:16;104:3, 16;105:7,24,25;107:11, 13,14;108:20;113:13; 115:19;116:4;117:10; 132:11;134:13;135:13, 15;136:22;138:1,3; 140:12,17;144:14,21; 145:8;146:8,10; 147:10,12;148:23,24; 149:14,15,18;150:4,9; 162:16;163:14;165:20, 20,21,24,25;166:5; 171:8,8;174:23,23 stockholders (1)	106:19 stood (1) 20:9 stop (4) 6:4;76:15,15;85:6 stops (1) 90:25 store (1) 4:12 Stradling (1) 19:11 straightforward (1) 64:12 strategy (1) 32:23 stream (2) 146:3,4 street (2) 142:24;188:12 strength (1) 145:14 stressed (1) 114:14 stretch (1) 66:17 Strictly (1) 60:14 strike (1) 92:3 strong (1) 145:13 strongly (1) 88:25 structure (5) 69:13;71:23,24; 103:15;133:19 structured (2) 42:14;106:16 struggling (1) 100:22 stuck (1) 51:5 stuff (3) 150:17;166:23; 178:21 style (1) 184:8 subject (16) 17:3;21:8,14;25:9, 17;45:13;50:3;73:3,4; 95:15;103:9;106:18; 132:3;161:5;178:2; 179:10 subjects (1) 73:23 submit (2) 91:17;171:3 submitted (3) 118:4;121:8;182:21 subordinated (2) 171:5,6 subordinates (1) 70:17
---	---	---	--	--

subordination (2) 73:4,4	188:12	95:22	technical (2) 5:11;73:18	146:22;149:10
subro (8) 125:19;135:6,9,9; 140:18;163:19,21; 177:16	sum (1) 147:2	suspenders (3) 28:9,11;173:5	technically (1) 184:12	Thanks (3) 10:16;18:7;38:18
subrogation (7) 41:13;49:8;98:22; 100:4,5,7;177:5	summarize (4) 5:19;62:10,10; 146:21	sustain (1) 105:20	technological (1) 110:1	Thanksgiving (3) 46:10,11;50:5
subscribe (1) 104:16	summarizes (1) 180:21	swap (1) 166:1	teed (1) 34:21	theory (7) 7:6;8:5;66:21;86:12, 22;87:12;152:12
subscription (2) 104:2;106:21	summary (1) 7:4	swayed (1) 102:17	telling (7) 14:3;35:3;76:21; 124:12;159:11;163:4; 176:12	therefore (8) 21:8;52:1;94:3;96:3; 102:22;106:17;121:18; 163:5
subsequent (2) 88:6;158:19	summation (1) 109:9	switching (1) 120:1	tells (1) 8:8	there'll (1) 77:3
subset (1) 71:10	summer (1) 132:12	sympathy (1) 168:1	ten (4) 6:2,11;35:2;167:3	thereof (1) 68:3
substance (2) 151:25;153:18	Sunday (1) 185:23	system (3) 25:2;62:22;88:22	tendency (2) 115:7,8	thinking (3) 51:4,4;96:8
substantial (3) 27:2;38:10;60:18	superimpose (1) 71:22	System/West (1) 37:23	ten-minute (1) 54:15	third (18) 62:3;64:17;65:18,20; 67:2;68:17,21;78:11; 90:16;91:5;95:21;97:6; 133:2;134:3;136:22; 138:3;145:7;147:17
substantive (1) 33:17	superimposed (1) 69:13	systemic (1) 179:16	tens (1) 111:6	third- (1) 34:13
substantively (1) 69:15	superimposing (1) 71:1	T	tense (1) 134:16	third-party (9) 65:1,8,10,12;67:12; 133:25;134:7,11; 138:23
succeed (1) 42:10	Superior (2) 92:22,23	table (4) 61:4;136:2;168:10; 175:10	tentative (2) 47:5,9	thirteen (6) 134:19;138:16; 139:21;141:6,18;152:3
succeeding (1) 148:6	supplement (1) 27:4	tailored (1) 111:21	Teresa (1) 127:23	thirty (2) 128:20;168:10
successful (2) 104:18;178:23	supplemental (2) 142:2,4	talk (8) 16:9;23:12;40:10; 76:10;86:18;151:5; 171:1;185:18	term (8) 52:25;53:2,24; 135:18;151:20,20; 168:6;184:11	Thomas (4) 42:10;56:3,12; 186:23
successfully (3) 47:19;50:10;51:10	support (3) 65:5;145:17;170:2	talked (11) 9:12;16:22;36:11; 44:6;49:13;50:22; 107:1;109:9;175:14; 178:22;182:19	terminate (2) 133:14;140:24	thorough (3) 178:14;182:4,5
successive (1) 78:18	supported (1) 131:9	talking (12) 7:12;25:12;38:3; 44:6;61:5;71:9;85:23; 125:15,16;160:22; 165:10;172:5	termination (1) 144:15	though (13) 20:3;47:25;60:19; 63:21;65:14;77:5; 79:20;80:16;86:12; 98:19;108:17;161:2; 179:20
such-and-such (1) 183:13	supports (3) 104:10,11;131:5	target (1) 17:7	terminology (1) 88:12	thought (13) 5:5,15;13:3;14:13; 22:11;39:11;91:15; 93:18;109:19,22; 114:23;133:16;182:7
suddenly (1) 152:19	Suppose (7) 72:1;81:10;94:8; 97:20;108:8;175:24,24	TCC (35) 38:8;40:2;128:25; 130:18;131:4,22,23; 137:13,17;138:17; 139:20;148:10,12,15; 152:2,13,24;153:24; 155:6,12,14,18;156:22; 160:14;161:22;170:12, 15,17,19,21;171:23; 177:15;179:25;180:10; 181:22	terms (28) 20:9;34:18;43:18; 48:10,16;66:7;101:25; 103:21;106:7;115:16; 117:8,11;123:7,17; 127:5;128:11;131:25; 133:9;139:20;145:21; 151:13;155:11,18; 162:14,15;167:11; 175:23;182:14	thoughts (1) 27:25
sued (3) 97:9,10;107:11	supposed (7) 17:11;86:12,22; 87:20;96:1;156:18; 158:10	TCCs (1) 153:4	tested (1) 170:11	thousand (2) 39:25;81:23
suffice (1) 184:10	supposedly (2) 107:12;149:6	TCC's (2) 137:2;169:12	testified (1) 162:10	thousand-dollar (5) 72:4,17;77:20; 107:23,24
sufficient (2) 129:22,23	sure (32) 5:12;20:2;21:20; 22:1;27:11;32:2;33:6; 39:13;47:25;50:21; 52:17;53:18;94:10; 98:9;113:3;124:25; 126:9;129:14;130:12; 142:3,8;143:9;145:24; 154:16,18;167:10,11; 170:7,21;178:1,12; 184:16	team (4) 57:3;141:19;179:12, 13	testify (1) 153:7	thousands (7) 42:6;60:24;111:6,6, 10,18;117:1
suggest (4) 4:19;6:4;43:16; 94:12	Surger (1) 83:7		testimony (10) 64:7;65:5;101:25; 104:1,4,10;118:11; 144:17;162:11;163:8	threatened (1) 186:21
suggested (10) 12:25;73:1;79:22; 83:24;88:25;90:2,12; 102:14;111:24;112:3	surprised (3) 64:18;180:9,11		tests (1) 48:3	
suggesting (2) 93:11;127:5	surveyed (1) 165:14		Texas (1) 162:24	
suggestion (7) 79:24;95:21,21; 114:25;115:15;175:8, 18	survivor (1) 53:23		textual (2)	
suggestions (1) 90:4	suspect (1)			
suing (2) 66:18;169:20				
Suite (1)				

three (16) 32:22;36:17;45:11; 53:25;61:12;73:7; 125:3,18,18;132:15; 146:22;149:25,25; 150:25;155:6;166:11	137:1,6;140:25;168:9; 172:25;178:9;183:8; 186:8,10	85:24;86:16;87:23; 103:17	32:3,23;150:13	163:15
three-and-a- (1) 80:17	today's (1) 136:7	traditional (1) 35:19	Trotter's (4) 31:3,17;150:14,15	Trustin (1) 151:7
three-and-a-half (1) 62:1	to-do (1) 158:22	transactions (1) 59:12	trouble (1) 63:1	trusting (1) 49:23
threshold (1) 179:20	together (5) 9:19;44:6;102:8; 136:6,6	transcript (4) 142:7;164:14; 175:15;188:4	troubled (1) 92:7	try (19) 14:1,8;32:20;37:14; 38:15;48:16;57:15,17; 63:4,5;64:3;85:9;91:9; 93:12;115:8;117:4; 121:4;127:12;129:24
throat (1) 152:9	told (9) 12:3;76:24;123:20; 124:7;126:17;156:13; 158:2;160:20;167:6	transformers (1) 142:25	Troy (16) 4:24;5:2,4,5;8:22; 9:3,5,20,23;10:1;11:7; 15:20;16:2;23:13; 25:19;33:14	trying (20) 13:16;18:13;59:7; 67:11;71:5;74:5;86:13; 87:7;115:17,18;117:8; 11:154:9;156:11; 159:4,14;160:13; 166:22,23;178:25
throats (1) 160:3	tomorrow (3) 93:19;123:11;163:21	transparent (2) 48:17;50:4	Troy's (1) 11:18	Tubbs (8) 49:15;56:21;132:13; 19,22;134:22,24; 144:13
throughout (1) 21:11	tone (1) 132:1	treasured (1) 42:24	true (18) 25:15;30:4,18;47:18; 49:3;50:25;72:22; 76:18;77:18;82:10; 87:2,20;107:21;108:2; 152:20;170:11;174:22; 188:4	Tuesday (2) 53:13;181:25
thrown (1) 138:15	tonight (4) 163:20;180:18; 183:17,20	treat (1) 77:7	truly (5) 73:19,25,25;74:19; 95:1	turn (12) 7:18;8:20;10:10; 11:20;54:21;68:13; 80:12;81:8;105:22; 109:8;115:11;186:21
thrust (1) 181:4	took (9) 10:21;25:18;26:24; 68:22;90:3;142:6; 177:7;180:13;182:2	treated (12) 72:9,18;82:23;96:25; 97:18;116:15,16; 125:20;140:4;147:8; 148:23;174:6	trust (50) 5:6;9:8,10;15:21,25; 16:9;25:2,22;26:3,14; 27:1,6,10,10;29:2,14, 15,17,21;30:13,15,20, 21;31:3,6,8;32:5,8; 35:24;36:13;38:8;39:1; 42:21;43:8,10;44:25; 46:12,13;48:8;64:1; 103:15;134:10;138:24; 139:16;141:8;149:12; 160:14;171:9;173:12, 19	turned (2) 179:14,18
thus (2) 90:6;104:5	tools (1) 159:16	treating (1) 70:5	Trustadministration (1) 141:14	turning (4) 35:7;105:16;106:4; 134:21
ticket (1) 185:2	top (3) 82:12;105:6;182:18	treatment (14) 64:16;68:3;75:2; 77:11,15;79:21;82:7,9, 17;106:15,17;107:13; 108:4;117:9	Trustand (1) 169:23	tweaks (2) 11:3;103:5
tie (1) 102:8	tops (1) 107:19	treats (2) 92:9;97:12	Trustcan (1) 147:10	twelve (1) 90:22
tied (1) 39:19	tort (7) 26:2;27:16;128:4; 131:2,7;150:12;165:6	Tredinnick (21) 9:17,19;10:9,12,13, 15,25;11:7,20;12:19; 15:24;16:7,10,12;18:9, 11,19,21,24;19:22; 25:20	Trustcannot (1) 147:11	twenty (1) 124:15
ties (1) 64:22	Tosdal (1) 46:6	tree (6) 138:4;139:11,15; 142:20;169:13,19	trusted (1) 44:13	twenty-four (1) 150:3
Tighe's (1) 39:20	totally (2) 69:19;80:6	trial (3) 101:17,18;135:2	trustee (21) 9:10;26:2;27:2,8,10; 28:20;29:16,22;31:6; 33:4,24;34:10;38:8; 99:5;150:9;172:23; 173:9,10,11;180:12,15	twenty-one (1) 149:14
tilt (1) 36:23	touch (3) 61:19;93:20;186:2	trials (2) 132:25;133:7	trusteeing (1) 141:11	twice (4) 18:18,22;139:13; 169:25
time- (1) 170:10	touched (2) 29:3;91:22	tried (5) 19:18;49:20;102:13; 164:13;174:11	trustees (1) 150:12	two (76) 4:19;5:20;7:20; 19:15,19;20:15,23; 22:14;23:1;28:12;29:2, 18;30:12;32:9,10,12, 12,12,18;34:24;38:4, 16;46:8;47:2;48:19; 50:18;52:19;69:14,19; 70:3;71:2;77:9;79:13; 81:22;82:18;86:15; 90:10;91:23;97:25; 100:1;103:8;106:7; 107:17;124:5;125:3; 133:4;135:1,6;139:22; 143:18;148:21,23; 151:6,22;152:6;155:6;
time-sensitive (1) 185:14	towards (2) 23:19;79:7	tries (1) 85:5	Trustfor (1) 140:11	
timetable (1) 121:5	tower (3) 138:6,8;143:2	triggering (1) 52:15	Trusthas (1)	
timing (3) 111:16;127:5;128:11	towers (1) 97:23	triggers (3) 185:7,8,16		
tired (3) 178:24;182:25,25	town (2) 142:9,22	trimmer (3) 139:11;169:13,19		
today (52) 4:12,5;11;16:22; 17:8;24:25;31:25; 38:14;39:12,19;57:14, 15;64:3,7;65:14;67:10; 74:2,13;75:15;91:8,15; 96:13;103:17;109:20, 23,25;115:2;118:24; 120:4,12,17;124:3,4; 127:10,13,14,15,18; 129:12;131:3;132:10; 135:7,17;136:16;	track (9) 17:7,51;16;56:10; 85:22;112:4;125:12; 155:25;166:24;178:25	trimmers (2) 138:5;139:15		
	tracks (1) 131:14	trimming (1) 142:20		
	trade (4) 81:13;83:15;104:5; 108:23	TRO (1) 160:7		
	traded (2) 75:14;83:16	Trotter (7) 28:20;30:7,16;31:11;		
	trading (7) 75:15;80:16,19;			

159:25;160:3,18; 163:13,14;165:5,19,22; 166:6,7,8,16;167:1; 168:5;169:6;171:10; 173:7,16;174:1,5 two-and-a-half (1) 33:25 type (2) 157:12;175:1 types (1) 174:11	151:11,17,19;152:8; 153:2;160:2 underwriters (2) 61:16;152:18 undisclose (1) 49:24 undisputed (1) 162:11 unequivocally (4) 65:2;101:4;103:19; 104:9 unfair (2) 106:6;163:16 unfairly (4) 102:10;103:3; 106:24;107:5 unfaithful (1) 168:24 unfortunate (1) 45:15 Unfortunately (4) 67:8;83:9;119:2; 120:12 UNIDENTIFIED (1) 38:24 unilateral (1) 157:16 union (1) 61:13 unique (2) 22:12,20 United (2) 26:4;180:12 units (2) 11:3;22:23 unless (12) 18:3;39:5,13;54:4; 89:10;101:20;134:15; 140:24;144:10;147:9; 148:14;186:12 unmute (9) 10:10;19:6,8;36:24; 37:7,18,18;55:4;56:5 unprecedented (1) 83:22 unreasonable (1) 34:10 unremarkable (2) 29:24;33:10 unresolved (2) 92:24;164:16 unsecured (1) 119:4 unsuccessful (1) 112:24 unwilling (1) 105:2 unwound (2) 88:16;90:15 up (86) 5:22;8:24;9:1;11:13, 24;19:15;23:24,25; 25:6,16;29:4;34:11,21,	25:37;11;38:18;39:19; 48:10;55:18;56:14,24; 57:6,12;58:22;59:25; 60:3;63:23;64:3;66:18; 69:21;75:20;77:1;78:2, 23;85:20,25;88:22,23; 89:12;91:5,14;92:11, 13;94:4;107:19;109:1; 110:5;111:7;117:11; 132:16;133:3;135:4, 12,17;136:12;140:11, 16;142:12;143:3,11; 146:18;147:2,16; 149:24;150:3,7,8; 152:12;154:14;157:11; 159:10;163:13;164:8; 167:15;168:11,12; 169:2,20,24;175:5; 179:11;181:11;182:11; 185:15;186:7,20 upcoming (1) 48:24 update (1) 4:21 updated (1) 10:20 up-front (1) 22:14 upon (11) 81:18;111:3;113:25; 114:2;121:20;122:21; 156:15;178:21;182:11; 183:9;185:12 upside (1) 104:18 urge (1) 28:6 urgency (1) 63:25 urgent (1) 185:22 use (11) 63:8;74:17,18;75:8, 12;84:15;86:10;91:1, 19;94:13;145:21 used (1) 87:18 useful (1) 87:14 using (6) 7:16;71:24;85:1; 88:11;90:23;95:2 usual (1) 170:10 utilities (1) 46:24 utility (18) 64:17;68:10,20,24; 69:21;71:12,14,22; 72:2,3,15,18;73:3,21, 25;74:8;116:23;145:20 utility's (1) 68:11	V valid (1) 6:10 Valley (1) 22:25 valuable (2) 104:6;181:2 value (41) 7:15;8:14;41:12,19, 21;42:9,21;46:13; 74:17;75:7,8;76:14; 87:20;88:1,12,13; 104:7,9,15,17,19; 105:1,5,5;107:18,19; 108:6,7,19,21,23; 112:21;113:19;116:13, 16;133:16;146:8,11; 174:9,22,25 valued (2) 76:13,18 values (1) 135:4 vanish (1) 71:22 variation (1) 173:22 various (4) 23:11;147:15; 165:11;183:8 vast (1) 139:5 vastly (2) 75:23;142:19 verbatim (1) 148:3 verify (1) 21:13 version (4) 11:3;15:13;27:3; 116:2 versus (4) 52:12;99:4;165:20; 167:25 via (1) 43:3 vice-versa (1) 105:23 victim (46) 8:11,12;9:8;15:21; 26:3;27:1,6;29:13; 30:1;31:2,3;33:10; 40:12;44:9;46:12,13, 14;48:4,8;53:23;64:1; 77:25;100:14,15; 103:13,14,15;125:19; 134:10;138:16,24; 139:16;140:11;141:8, 14;147:10,11;150:14; 151:7;160:14;163:15; 169:23;171:9;173:10, 11;177:15	victims (72) 40:5,9,11;41:4,13,16, 20,24;42:3,16,19;43:9, 18;44:8,11,16;45:4,24; 46:1,21;47:1,3;48:1,11, 18,21;49:1,10;50:1,2, 21,23;51:10;53:22; 125:19;131:9,23,24; 132:18;133:20;136:18, 21;137:7,21,23; 138:12;139:13;141:10, 12,24;142:6,8,9,11; 143:18;146:9;147:4,6, 8;149:6,16;150:10; 152:4;165:18,24; 174:5;177:3,6;178:10; 179:23;180:5;181:23 victims' (10) 42:20;43:6;133:22; 148:23;149:3,4,12; 150:9;169:13,16 victim's (1) 8:12 victim-sensitive (1) 43:3 video (8) 10:11;20:3;54:22; 63:10;73:13,16;85:11; 132:21 view (19) 32:3;33:13;102:10; 110:9,10;113:15; 121:13;129:8;132:16; 135:3;145:18;150:11; 159:11;160:1;169:11; 170:19;173:10,14; 175:4 views (1) 43:14 violated (1) 149:4 violations (1) 111:4 virtual (3) 64:25;83:21;145:21 virtue (5) 69:8,8;106:19; 114:10,10 Vision (2) 42:11,11 vitality (1) 185:22 VOICE (6) 7:9;45:18;57:6,7; 62:16,25 volume (3) 37:12;74:12;149:18 voluntarily (2) 60:4,5 vote (7) 44:18;46:1;111:12, 18;136:18;137:23; 179:17
---	--	--	---	--

voted (5) 50:3;64:24;102:18, 21;111:8 votes (1) 45:14 voting (5) 44:10;103:22;131:9; 137:14;179:11	8:10;47:2;159:25 weapon (1) 186:21 Weatherford (1) 162:23 web (1) 7:9 Wednesday (5) 40:6;51:16;53:13; 58:24;59:7	126:6;143:2;160:13; 164:20;174:25 whomever (1) 54:17 whose (1) 92:21 wildfire (12) 133:21;142:13,18, 19;143:15;144:9,18,22, 24;145:15,15,15 wildfires (1) 144:7 willful (1) 27:9 Williams (2) 162:9;165:13 Williams' (1) 147:1 willing (3) 91:8;94:24;158:24 win (3) 70:2;111:12,12 windfall (2) 113:18,22 Winthrop (12) 36:19,21;37:8,18,19, 20,22;38:2,20,21;39:5; 43:25 wiped (1) 139:1 wisdom (1) 132:6 wish (3) 4:14;178:22;186:14 wished (2) 25:9;36:19 withdrawal (1) 133:2 withdrew (1) 60:10 withhold (1) 43:11 within (9) 29:3;65:12;77:9; 147:10;157:21;163:14; 170:19,21;173:15 without (18) 42:12;43:4,8;47:2; 52:3;57:17;60:19; 63:10;64:14;103:5; 119:10;125:25;147:12; 148:17;164:17;165:19; 171:11;176:23 wondered (1) 171:22 wonderful (3) 49:2;75:13;89:23 wonderfully (1) 181:2 wondering (1) 102:1 word (5) 15:24;52:20;77:24;	185:6,7 words (18) 22:2,3,3;51:21;73:7; 76:20;78:24;82:23; 106:12;107:22;110:5; 114:22;140:25;145:21; 154:13;159:17;178:11; 180:23 work (17) 13:16;22:16;25:2; 38:7,14,19;46:15;76:5; 80:5;97:15;109:19,20; 115:24;167:4;179:13; 183:1;185:23 worked (6) 9:9;16:15,18;86:4; 141:1;170:14 working (6) 38:10,15;46:15; 53:10;141:2;160:16 works (1) 4:22 world (3) 78:17;81:23;145:23 worry (1) 44:1 worth (4) 75:25;103:10; 107:25;108:11 wrap (1) 110:5 wrap-up (1) 102:7 writing (2) 41:23;140:5 written (2) 7:25;119:21 wrong (7) 4:12;22:12;32:11; 77:24;119:7,13;121:16 wrongdoer (2) 77:23;100:16 wrongdoers (1) 100:19 wrongful (1) 133:11 wrought (1) 136:6	yesterday (25) 7:5;16:23;26:1; 36:11;38:4;39:12,20; 40:7;43:14,15;44:5; 45:9;50:22;51:13,15; 53:23;54:21;148:16; 156:19;164:13;175:8, 9,17;181:4;182:12 yield (1) 81:5 Yocca (1) 19:12 York (3) 54:24;162:24;185:22 young (1) 53:1
W				Z
Wait (11) 10:5;14:20;28:2; 56:4;62:23;63:5;93:3; 121:19;150:10;163:15; 173:4 waiting (4) 11:8;12:13;57:5; 176:13 waive (1) 122:22 waived (2) 123:1,2 waiver (1) 152:22 wake (1) 75:20 walking (1) 143:2 Walkup (1) 37:9 Wallace (3) 44:4,23;53:23 Wallace's (2) 44:22;46:22 wants (10) 4:24;5:2;16:7;28:9; 39:13;46:5;137:16; 173:5;176:16;179:25 Washington (1) 104:12 watch (2) 54:6;143:8 water (1) 67:4 waterfall (1) 71:25 Watts (1) 142:6 way (44) 6:7;7:7,16;9:1;13:4; 23:19;28:14;34:12; 42:14;52:22;77:7,12; 78:23;82:24;83:2,4; 89:3;91:24;92:11; 95:25;96:1,4,5;102:20; 108:8;111:10;116:4; 127:9;136:7;157:7,25; 158:25;160:8,11,17,18; 167:4;168:2;171:24; 172:14;175:13;176:13, 17;182:2 ways (3)	31:15 week (8) 11:5;124:1,2,4; 158:3,24;163:22; 180:19 weekend (11) 38:15;117:22,25; 120:14;121:2;127:10; 128:18;159:21;184:18; 186:14,15 weeks (4) 26:24;29:2;98:22; 173:18 weigh (1) 16:8 Weil (1) 179:18 welcome (1) 154:9 Wells' (2) 65:4;144:17 weren't (6) 31:5;69:16;124:25; 179:23;180:8;181:8 what'll (1) 182:22 what's (25) 14:21;16:11;17:9; 25:1,1,4;26:17;44:24; 47:4;51:20;56:11;70:1; 89:3;93:22;100:20; 115:17;120:2,5; 128:11,22;137:9; 150:23;151:3;154:24; 164:20 whatsoever (3) 97:17;101:10;117:8 whenever (1) 182:12 When's (1) 44:25 whereas (2) 75:3;163:15 wherein (2) 132:24;142:7 Where's (1) 109:5 Whereupon (3) 55:1;85:15;187:8 whole (11) 15:25;34:11;86:5; 94:2;100:3;125:2;	15:24;52:20;77:24;	Y	zenith (1) 84:24 zero (1) 22:16 Ziman (2) 147:19;153:7 Ziman's (3) 104:4,10;144:17 Zoom (2) 88:22;136:7
				1
				1 (11) 50:18;80:3;140:9; 151:8,9,10,14;152:16; 165:6;166:15;170:4 1,000 (13) 5:22;6:3,10,13,22; 7:2;37:17;72:2;75:18, 21,23;76:24;142:22 1.108 (1) 73:7 1.6 (2) 151:14;157:10 10 (2) 15:5;121:8 10.13 (7) 11:2;12:13;13:6,8; 20:7;21:23;119:7 10.3 (3) 12:5;15:5;21:8 10.6 (2) 65:22;66:7 10.9e (1) 15:7 10.9f (5) 17:16,18;20:7; 119:17,20 100 (2) 97:10,21 101.5 (1) 21:7 10-12-17 (1)

87:21 10-12-2017 (1) 88:4 101691 (1) 59:1 102a (1) 113:8 105 (1) 110:21 1054 (12) 44:20;47:12,14; 51:21;52:14,20,20; 64:2;122:3,7;158:20; 166:14 10A- (1) 74:14 10a1 (2) 107:20,21 10A-I (3) 74:20;75:2;91:3 10A-II (28) 59:6,16,18;60:18; 61:7;64:23;65:15,25; 68:4;74:19,23;75:2; 76:4;80:7;82:13;84:18; 91:4,21;96:25;97:1; 102:10,11;103:1,4; 106:25;107:19;117:2,6 10b (1) 105:9 10b-5 (1) 87:12 11 (7) 54:23;60:14;64:2; 102:21;140:18;142:18; 143:5 11.1 (2) 15:11;119:9 11/15/2018 (1) 89:24 1129b (1) 102:22 1141 (2) 169:10,15 119,000 (1) 59:1 11th (2) 44:18;49:13 12 (2) 79:1;86:17 12:45 (2) 85:9,10 12th (18) 76:12;78:13;79:24; 84:14,17,21;86:8,17, 18,20;87:7,15;88:19, 25;94:8;115:3;116:6; 126:4 13.5 (13) 133:22;134:7,13; 135:4;136:2;138:2; 139:6,8,13,14;174:21, 22;177:8	13.5-billion- (1) 138:18 13.5-billion-dollar (2) 134:2;139:2 144 (2) 149:20,22 1442 (1) 86:24 14-day (1) 122:24 15th (2) 61:25;89:4 16,000 (1) 142:6 16th (2) 174:3;188:12 1933 (1) 61:14 1934 (1) 61:8 1996 (1) 86:24 2 2 (8) 26:13;50:20;54:24; 90:11;91:25;121:8,8; 151:19 2.2 (1) 32:4 2.2e (2) 26:23;30:18 2.2g (1) 30:19 2.2h (3) 26:13,14,22 20.1 (1) 171:24 2003 (1) 170:4 2011 (1) 104:13 2015 (2) 61:25;133:10 2017 (6) 40:12;76:12;80:3; 86:18,21;88:19 2018 (4) 6:1;61:25;89:4; 104:23 2019 (3) 49:1;59:10;141:15 2020 (5) 4:1;46:10,11;51:9; 188:15 2021 (2) 46:11,17 21 (1) 171:24 21-billion-dollar (1) 144:8 22 (1)	170:4 23 (1) 112:14 26 (1) 170:4 26c (1) 102:21 28th (1) 175:16 29 (2) 140:25;141:3 29th (3) 6:1;61:25;184:7 2-to-9 (1) 121:6 3 3.11 (1) 33:23 3.5 (1) 132:14 3.6 (2) 177:5,9 30 (3) 122:2;144:11;166:14 3020e (1) 122:23 30th (11) 51:22,24;52:11,13; 53:5;122:6,8,15,17; 123:9;175:16 314 (1) 104:13 31st (2) 46:11,17 321 (1) 104:23 34 (1) 15:14 35.9 (3) 84:3;88:4,14 364,557 (1) 59:14 3e (1) 119:13 4 4,000 (2) 30:6;91:25 40,000 (1) 58:15 41 (1) 184:23 442 (1) 104:13 48 (1) 151:21 5 5 (1)	4:1 5,000 (2) 30:5,6 5.4 (1) 27:5 5.5 (1) 27:6 5.7 (1) 27:9 50,000 (1) 58:16 50,000-foot (1) 29:8 50-page (1) 124:9 510b (20) 8:7,8,15;69:21; 70:15,17;72:18;73:5; 74:6,7,22;80:9,11; 81:17;105:22,23; 116:13,14;131:14; 171:7 526 (2) 7:8,14 582 (1) 104:22 5th (1) 121:9 6 6 (2) 138:14;153:15 6.1 (1) 21:18 6.75 (1) 165:24 6013-3 (1) 153:15 66 (1) 179:20 6-billion-dollar (1) 145:2 7 7 (3) 48:2;142:1;149:3 7,000 (2) 5:24;60:25 70,000-plus (1) 131:23 7023 (1) 60:15 7037 (1) 27:5 71345 (1) 59:9 7227 (1) 188:12 7276 (1) 15:16 7306 (1)	155:23 7399-1 (1) 26:19 7399-2 (1) 26:18 75 (1) 179:17 7509 (1) 27:18 7522 (1) 27:18 7791 (2) 62:12;63:17 8 8 (2) 138:2;188:15 8.2 (3) 11:12;12:6;119:15 8.23 (1) 12:6 8.2e (10) 10:23;11:12;12:7,19, 20;16:14;20:6;119:14, 15,19 8.3 (1) 119:13 824 (1) 94:8 85020 (1) 188:13 896 (3) 80:16,19;86:16 8th (1) 147:5 9 9 (1) 91:25 9:30 (2) 4:1;185:25 90 (1) 86:23 9019 (4) 174:2,13;175:3; 176:24 9th (4) 86:24,24;87:10;89:6
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